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Ontario Criminal Injuries Compensation Board 1984/85

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**THE
SIXTEENTH REPORT**
of the
**ONTARIO
CRIMINAL INJURIES COMPENSATION
BOARD**
administering
**THE COMPENSATION FOR VICTIMS
OF CRIME ACT, 1971**
for
the fiscal year
April 1, 1984 to March 31, 1985

THE BOARD

ALLAN GROSSMAN – to January 20, 1985
Chairman

GERALD M. HARQUAIL – From January 21 – March 31, 1985
Acting Chairman

ANNE STANFIELD
AUDREY MERRETT
Vice-chairmen

W. Lyle Black, M.D.
Gloria J. Burt
Greville Clarke
Linda Clippingdale
John D.V. Hoyles
Robert W. Mitchell, Q.C.
E. Lee Monaco
Harvey Spiegel, Q.C.
Anne Tomljenovic
Uno Viegandt
Members

* * * * *

V.P. GIUFFRE
J.H. SHEARD

Registrar
Chief of Investigations

* * * * *

Copies of this report may be obtained from:

Criminal Injuries Compensation Board

17th Floor, 439 University Avenue
Toronto, Ontario M5G 1Y8
Telephone: (416) 965-4755



Criminal Injuries
Compensation
Board

416/965-4755

439 University Ave.
17th Floor
Toronto, Ontario
M5G 1Y8

The Honourable Ian Scott, M.P.P.,
Attorney General for Ontario,
Parliament Buildings,
Queen's Park,
Toronto,
Ontario.

Honourable Sir:

I have the honour to submit the sixteenth report of the Criminal Injuries Compensation Board, which covers the period April 1, 1984 to March 31, 1985.

Sincerely,

A handwritten signature in dark ink, reading "Margaret Scrivener". The signature is written in a cursive style with a large initial "M" and a long horizontal stroke at the end.

Margaret Scrivener (Mrs.),
Chairman.

Programme Description

The Legislation

The legislation under which the Board functions is The Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967.

The Board is required by the Act to find the commission of a crime of violence (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies.

Section 6 of the statute prescribes a one-year limitation period for filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 175 requests for extension of the limitation period were approved compared to 101 in the previous year.

Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums:

In the case of lump sum payments, up to \$15,000, and in the case of periodic payments, up to \$500 per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is \$7,500.

These maximums were enacted in 1971. Having regard for the inflationary factor in the last 14 years, very serious consideration will be given to a substantial increase in its maximums and the Board respectfully recommends that this matter should be addressed by the Government as soon as possible.

Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to injury or death. \$62,991,00 was recovered during the

fiscal year, compared to \$38,679.01 in the previous year.

Hearings

The members of the Board, of whom the twelve are on a part-time basis, usually sit in panels of two.

During the fiscal year, hearings, in addition to those held in Toronto, took place in Thunder Bay, Sudbury, Fort Albany, Sault Ste. Marie, Windsor, London and Ottawa. This is done to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

Documentary Evidence Hearings

Some applications which are relatively minor and simple of adjudication are, with the consent of the applicants, dealt with on documentary evidence alone. A total of 130 were heard in this manner, compared to 74 in the last fiscal year.

This minimizes the need to inconvenience the applicant and/or solicitor and witnesses in so far as travelling to the location of hearings, the attendant loss of work time and expenses involved.

Child Abuse

During this fiscal year the Board received 10 applications in respect of child abuse, heard 13 cases and awarded \$69,401.94.

Administration & Productivity

The administrative staff of the Board is composed of the Registrar, Deputy Registrar and Chief of Investigations, three investigators and a secretarial, stenographic and clerical staff of eight.

In this fiscal year, the Board heard 1043 applications and 1086 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year.

The total value of awards increased from \$3,249,715.56 in 1983/84 to \$3,285,883.54 in 1984/85. The periodic payments of \$592,510.81 are not included in the average award.

The number of applications received increased from 1488 in 1983/84 to 1697 in this fiscal year.

Public Awareness

Large posters and explanatory pamphlets in five languages are supplied to hospital emergency wards and staff lounges, Court houses and other public buildings, supermarkets, etc.

Police forces throughout the province have been supplied with hundreds of thousands of wallet-sized cards (at right) to be given to victims of crimes of violence advising them how to apply to the Board.

The daily hearing agenda and a selection of typical Board Orders are provided to the news media.

Cost Sharing

Awards made under The Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts to the lesser of 50% of the awards (net of any recoveries), or ten cents per capita of the population of the Province. Because of this formula, the Federal contribution has decreased from 50% in 1977/78 to 27% in 1983/84. This share amounted to \$881,590.00. The Federal Government does not share administrative costs.



Ontario

ONTARIO CRIMINAL INJURIES COMPENSATION BOARD

Injured innocent victims of violent crimes may be eligible for compensation from the above Board. Reporting to, and co-operating with, the Police, is an important consideration. If you feel you may qualify, contact the Board immediately at (416) 965-4755, or write to 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8.

(9/8/83)



Ontario

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS DE L'ONTARIO

La Commission susmentionnée peut accorder une indemnisation aux victimes innocentes d'actes criminels violents qui ont été blessées. Il est primordial de contacter la police et de collaborer avec elle. Si vous pensez avoir droit à une indemnisation, veuillez contacter immédiatement la Commission, en téléphonant au (416) 965-4755, ou en écrivant à l'adresse suivante: 439, avenue University, 17^e étage, Toronto, Ontario M5G 1Y8.

(9/8/83)

Applications By Area

Acton	1	Brantford	20	Collingwood	5
Ajax	5	Britt	1	Collins Bay	1
Amherstburg	1	Brockville	2	Coniston	1
Ariss	1	Brooklin	1	Consecon	1
Armstrong	1	Bruce Mines	1	Cookstown	1
Arnprior	1	Burkes Falls	1	Cornwall	9
Arnstein	1	Burlington	6	Courtland	1
Aurora	3	Caledonia	1	Coventry	1
Azilda	1	Cambridge	6	Crystal Beach	1
Baillieboro	1	Campbellford	3	Deseronto	1
Barrie	8	Castor Centre	1	Devlin	1
Barry's Bay	1	Cayuga	1	Dresden	3
Bath	7	Cedar Point	1	Dundas	2
Belle River	1	Charleston Lake	1	Dunnville	3
Belleville	5	Chatham	12	Dunvegan	1
Big Trout Lake	1	Chelmsford	1	Elliot Lake	2
Blackburn Hamlet	1	Cheltenham	1	Elmstead	1
Blenheim	4	Chute a Blondeau	1	Elora	1
Bramalea	3	Clendeboye	1	Emerville	2
Brampton	13	Clifford	1	Epsom	1
		Cobourg	3	Erin	1
		Cochrane	2	Espanola	1
		Colborne	1	Essex	2
		Colchester Twp.	1	Exeter	1

Applications By Area (cont'd)

Fenelon Falls	1	Matheson	1	Ridgeway	1
Fergus	1	Mattawa	1	Rodney	1
Finch	1	Meaford	2	St. Catharines	34
Fort Albany	14	Midland	3	St. Clair Beach	1
Fort Erie	3	Millbrook	3	St. Thomas	3
Fort Frances	1	Millhaven	3	Sarnia	8
Fowlers Corners	1	Milton	2	Sault Ste. Marie	16
Fruitland	2	Mimico	2	Seeley's Bay	1
Gananoque	3	Minaki	2	Shabaqua	1
Garson	1	Minden	3	Shannonville	1
Gladbrook	1	Mississauga	35	Sharbot Lake	1
Gloucester	3	Mitchell	1	Simcoe	8
Goderich	3	Mitchell's Bay	1	Sioux Lookout	2
Gormley	1	Mt. Albert	1	Six Nations Reserve	1
Grand Bend	1	Muncey	1	Smiths Falls	2
Grande Pointe	1	Napanee	6	Spenceville	1
Grassways	1	Naughton	1	Spring Valley	1
Grassy Narrows	1	Nepean	4	Stayner	1
Gravenhurst	1	New Credit Reserve	1	Stevensville	1
Grimsby	0	Newington	1	Stoney Creek	1
Guelph	13	New Liskeard	1	Stratford	5
Gull Bay	1	Newmarket	2	Streetsville	1
Hagar	1	New Osnaburgh	1	Sudbury	21
Haileybury	1	Niagara Falls	18	Sutton	1
Haileybury Beach	1	Niagara-on-the-Lake	3	Terrace Bay	2
Haliburton	1	North Bay	4	Thornhill	1
Hamilton	88	North Gower	1	Thorold	4
Havelock	1	Oakville	8	Thunder Bay	27
Heron Bay	1	Ohswegen	2	Tillsonburg	3
Hwy 6	1	Omeme	1	Timmins	1
Huntsville	2	Orillia	5	Toronto	662
Hyman Twp	1	Orleans	1	Trenton	6
Ilderton	1	Oshawa	25	Tuscaraon Twp.	1
Kapuskasing	1	Ottawa	86	Unionville	1
Keewatin	1	Oxford	1	Upper Mt. Albion	1
Kenora	2	Painpoonge Twp.	1	Val Caron	1
Kenyon Twp	1	Paris	1	Vanier	2
Kincardine	2	Parry Island Reserve	1	Vaughan Twp.	1
Kingston	32	Parry Sound	1	Wallaceburg	5
Kirkland Lake	1	Perth	3	Wallenstein	1
Kitchener	24	Petaawawa	2	Walpole Island	1
Komoko	1	Peterborough	11	Wasaga Beach	1
Leamington	3	Pickering	10	Waterford	1
Listowel	1	Pickering	10	Waterloo	11
Lobo Twp	1	Picton	2	Welland	5
London	59	Port Colborne	4	Weston	3
Lowbanks	1	Port Credit	3	Westport	1
Mactier	1	Port Dover	1	Westvale	1
Madoc	1	Port Hope	1	Wheatley	1
Malton	1	Port McNicoll	1	Whitefish	1
Manitouwadge	1	Port Rowan	1	Wikwemikong	2
Markham	7	Port Stanley	1	Windsor	72
Morson	1	Port Sydney	1	Wolfe Island	1
Massey	2	Prescott	2	Woodstock	2
		Queensville	1	Woodville	1
		Rainy River	1	York County	1
		Richmond Hill	2	TOTAL	1,697
		Ridgetown	1		

TYPES OF CRIME AS LISTED ON APPLICATIONS

Assault Causing Bodily Harm	737
Assault	294
Wounding	140
Rape (Sexual assault)	98
Attempted Murder	77
Murder	73
Assault Police	63
Robbery/Violence	48
Resist Arrest	47
Robbery (with Assault)	39
Assault with Deadly Weapon	12
Manslaughter	9
Criminal negligence	9
Indecent Assault	8
Dog Bite	7
Assault with Vehicle	5
Attempted Rape	5
Attempted Robbery	5
Common Nuisance Causing Harm	4
Mischief	3
Arson	2
Illegal Confinement	2
Weapons Dangerous	2
Obstruct Police	2
Dangerous use of Firearms	2
Threatening	1
Kidnapping	1
Explosion (Bomb)	1
Making an Arrest	1
TOTAL	1,697

NOTE: “Child Abuse”. The above statistics listed under the category under the terminology of the Criminal Code include 10 cases commonly referred to as “Child Abuse.”



1) Assault causing bodily harm	43.4%	8) Robbery with violence	2.8%
2) Assault	17.3%	9) Resist arrest	2.8%
3) Wounding	8.2%	10) Robbery with assault	2.2%
4) Rape (sexual assault)	5.7%	11) Assault with Deadly weapon	.7%
5) Attempted murder	4.5%	12) Criminal Negligence	.5%
6) Murder	4.3%	13) Manslaughter	.5%
7) Assault Police	3.7%	14) Other	3.4%

NOTE: "Child Abuse." The above statistics listed under the category under the terminology of the Criminal Code include 10 cases commonly referred to as "Child Abuse."

COMPARATIVE SUMMARY
of
APPLICATIONS AND DISPOSITION

BY FISCAL YEARS
APRIL 1, 1981 to MARCH 31, 1985

COMPARATIVE SUMMARY – FISCAL YEARS APPLICATIONS AND DISPOSITION

	April 1, 1981 to March 31, 1982	April 1, 1982 to March 31, 1983	April 1, 1983 to March 31, 1984	April 1, 1984 to March 31, 1985
Eligible applications received	1250	1329	1488	1697
Applications heard (1)	980	928	925	1041
Applications heard on documentary evidence	107	96	74	132
Applications heard but denied	128	93	59	67
Applications heard – further evidence required	2	0	0	0
Second hearings	0	4	0	2
Review of awards	6	3	6	6
Decisions completed and awards ordered (2)	979	950	970	1086
Files closed	476	174	431	415
Interim awards	6	11	3	5
Supplementary awards	71	84	83	76
Periodic awards	16	17	18	15
Lump sum payments	\$2,254,654.16	\$2,328,957.11	\$2,677,791.38	\$2,693,372.73
Periodic payments	525,842.58	554,741.10	571,924.18	592,510.81
Total of awards ordered	2,780,496.74	2,883,698.21	3,249,715.56	3,285,883.54
Average award (3)	2,303.02	2,451.54	2,870.61	2,480.08

NOTE:

- (1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include files closed.
- (2) Includes Interim, Supplementary and Periodic Awards
- (3) Periodic Payments not included when arriving at Average Award

CONSOLIDATED SUMMARY OF AWARDS **APRIL 1, 1984, TO MARCH 31, 1985**

MONTHS	NUMBER OF AWARDS	MEDICAL EXPENSES	LOSS OF EARNINGS	PECUNIARY LOSS TO RELATIVES OF DECEASED VICTIMS	PAIN AND SUFFERING	FUNERAL AND BURIAL EXPENSES	OTHER PECUNIARY LOSS	LEGAL FEES	OTHER EXPENSES RECOVERABLE AT COMMON LAW	TOTAL AWARDS
April	64	7,840.76	18,629.39		93,900.00	3,600.00	4,919.56	5,450.00		134,339.71
May	65	8,201.08	11,304.07	2,585.00	89,750.00	5,173.92	8,519.93	5,150.00		130,684.00
June	104	18,387.94	21,476.51		209,350.00	6,813.00	16,812.42	10,950.00		283,789.87
July	58	6,323.40	8,532.68	17,055.70	150,500.00	3,165.00	12,861.30	11,050.00		209,488.08
August	130	13,925.71	26,643.29	1,148.80	227,850.00	6,927.12	13,027.62	11,660.99		301,183.53
September	80	7,366.46	17,849.15		159,800.00	10,251.12	10,693.91	9,650.00		215,610.64
October	83	11,585.12	16,269.87		143,250.00	5,250.00	12,128.78	10,234.00		198,717.77
November	83	6,135.85	18,702.17		166,400.00	5,400.00	8,311.06	8,100.00		213,049.08
December	68	11,431.02	26,722.98	10,000.00	141,850.00	3,600.00	13,225.62	7,775.00		214,604.62
January	118	12,548.91	34,296.89		172,000.00	8,715.00	14,283.35	13,250.00		255,094.15
February	101	16,977.39	21,146.77		142,300.50	8,455.54	11,216.97	9,775.00		209,872.17
March	132	12,972.06	45,847.45	888.00	221,000.00	10,800.00	19,581.60	15,850.00		326,939.11
Grand Total	1086	133,695.70	267,421.22	31,677.50	1,917,950.50	78,150.70	145,582.12	118,894.99	2,693,372.73	
		4.96%	9.92%	1.18%	71.22%	2.90%	5.40%	4.42%		100.00%

NOTE:

In addition to the above total of awards ordered, the cumulative of Periodic Payments made amounted to \$592,361.71. This included continuing periodic payments ordered in previous years.

EXAMPLES OF DECISIONS

April 1, 1984 to March 31, 1985

THE BOARD ORDER – AN EXPLANATORY NOTE

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action.

Under The Compensation for Victims of Crime Act, 1971, which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category.

Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant.

Section 22 of the Act provides for an order for costs, usually those entailed in making, or providing support to, an application.

Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently

- (a) new evidence has become available, or
- (b) change of circumstances has occurred, or
- (c) the Board considers any other matter relevant,

on the application of any of the parties to the proceedings, the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this provision.

Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors. As well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a hearing is held in camera or publication is restricted.

Examples of Decisions

922-011049

The applicant, age 24, a circus tent master, was in a bar in Aylmer, with a friend and was playing pool, when he and his friend were harassed by the alleged offenders who were drunk and rowdy. Although the applicant and his friend tried to avoid a confrontation by returning to their table and sitting quietly, the offenders set upon them both and beat and kicked them.

The applicant received a fractured ankle and two broken teeth. The two teeth had to be removed later along with their roots. He had a cast applied to his ankle which was removed after four days and replaced with a bandage. The applicant was unable to work for four weeks. The offender was convicted of assault causing bodily harm and sentenced to 18 months consecutive. Charges against other alleged offenders were withdrawn.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$80.00; 7(1)(b) pecuniary loss \$684.00; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) other pecuniary loss \$29.40; solicitor's fee \$300.00 and disbursements \$413.20. Under section 25, the Board agreed to consider payment for dental work when an estimate was received from the applicant's dentist and the work had been completed. In a supplementary order, the Board awarded further compensation under Section 7(1)(a) dental expenses \$2,849.00, for a total award of \$6,935.60.

922-010916

The applicant was 27-years-old, employed as a timberman. The applicant and his family were on their way home in their car near Renfrew, Ontario, when a gunshot was fired from an oncoming car at the applicant's vehicle. The bullet struck the applicant's three-and-a-half-year-old son in the head, killing him instantly.

This application is for pain and suffering, loss of income and funeral expenses. Medical and psychiatric evidence on file indicated that as a direct result of the circumstances surrounding this occurrence, the applicant was severely traumatized and suffered severe mental and nervous shock which impaired his subsequent ability to function normally and he has never really come to terms with what happened.

The applicant is still on medication and is seeing his doctor once or twice a week. Since the occurrence, the applicant had only been able to work on and off, however, he is presently fully employed. Due to the fact that the documentation as to the applicant's actual loss of income is somewhat incomplete, the Board makes an arbitrary allowance for the pecuniary loss sustained by the applicant.

The offender was apprehended, charged with criminal negligence causing death and dangerous use of a firearm, found guilty of the latter and sentenced to 90 days in jail. The motive for the shooting has never been established.

The Board noted that this application was filed after the limitation period of one year. An extension was granted. The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses (funeral) \$500.00; 7(1)(b) pecuniary loss (loss of income) \$6,500.00; 7(1)(d) pain and suffering \$6,000.00 and 7(1)(f) other pecuniary loss (loss of income to attend hearing and travel costs) \$184.00. In addition, the Board directed that the sum of \$55.00 be paid to the applicant's physician for a written psychiatric assessment. In this case there was a total award of \$13,239.00.

922-012600

The applicant, a 24-year-old hotel employee, was assaulted while on his way home late at night in New Liskeard. The offender had been a troublemaker in the hotel where the applicant was employed.

On this occasion, the offender, who clearly held a grudge and was high on drugs and alcohol, followed the applicant as he was going home and assaulted him. The applicant was punched a number of times, knocked to the ground and then kicked in the groin. He was unconscious for some period of time but was able to make his way home where he collapsed. He was treated for abrasions and bruising to his face and arms. More serious was an injury to his right testicle which was extremely sore and swollen for approximately one month and kept him off work for two weeks. He has been left with an atrophied right testicle.

The offender was convicted of assault causing bodily harm and fined \$100.00.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$124.00 for eyeglasses; 7(1)(b) pecuniary loss \$450.00 for his net loss of wages for two weeks lost work; 7(1)(d) pain and suffering \$2500.00; 7(1)(f) other pecuniary loss \$141.50, for lost income and travel to the hearing, for a total award of \$3215.50.

922-011145

The applicant was aged 32 and a self-employed maintenance electrician.

In the early morning hours, the applicant, accompanied by a friend, attended a party to which they had been invited in Etobicoke. The applicant and his friend had been together, drinking earlier in the evening, but this consumption of alcohol was not regarded by the Board as being pertinent. The applicant and his friend had just entered the house in Etobicoke when his friend was attacked by two men. The friend managed to extricate himself from the altercation and forthwith fled, whereupon the two offenders turned on the applicant, striking and tripping him and kicked him about the head, body and limbs while he lay on the floor in a semi-conscious state.

The applicant had a cut on his forehead still evidenced by a scar. There was a tear of two of the four ligaments in the left knee. This necessitated an operation on the knee to sew up these torn ligaments and the applicant was placed in a rigid cast for six weeks. A light cast was necessary, and the applicant was off work for approximately for months. He has never regained his full former mobility of this limb and suffers occasional pain.

The offender pleaded guilty to a charge of assault and was fined \$150.00. The charges against the other offender was dropped.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(a) expenses \$890.00 which included \$856.00 for a hairpiece which was destroyed in the assault, \$21.00 for ambulance and \$13.00 for crutches; 7(1)(d) pain and suffering \$3000.00; 7(1)(f) other pecuniary loss \$258.10 which was the applicant's return airfare from Edmonton; solicitor fee \$250.00 and disbursements \$25.00, for a total award of \$4423.10.

922-011794

The applicant was 37-years-old, and was employed as a building manager. At approximately 5:00 a.m., the applicant received a telephone call from someone who said he was a police officer and that there was trouble at a particular Masonic Temple in Toronto where the applicant worked and he was asked to come down.

When the applicant arrived and entered the building, he was grabbed by two masked men, dragged to the building office and forced to open the office safes. They threw gasoline all around the office and doused the applicant with same. After taking the money from the safes and before leaving, they lit a match engulfing the office and the applicant in the ensuing fire. The applicant was able to flee and jumped into the fountain in front of the building.

The applicant was treated for partial thickness burns of the left face, left neck, left hand and psychological trauma. The applicant had a long recovery period and required psychiatric treatment. The two unknown alleged offenders have never been identified. The applicant was off work for 2-1/2 to 3 months.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss \$141.92 which was the amount of wages not covered by Workers' Compensation; 7(1)(d) pain and suffering \$4000.00; solicitor fee \$300.00 and disbursements \$232.00, for a total award of \$4673.92.

The Board was of the opinion that certain medical costs not covered by OHIP should be covered by Workers' Compensation. If these were not, the applicant was apprised of Section 25 of the Act.

922-010796

The applicant in this matter is the daughter-in-law of the victim, who resides in Scotland.

The victim, a 59-year-old private nurse, while visiting Windsor, Ontario, was walking along the street when she was approached from behind by the offender who grabbed her purse. While attempting to hold on, the victim was pulled to the ground and had her arm wrenched. Her pleas for help alerted a group of boys and an adult who gave chase and were able to retrieve the victim's purse and identify the offender. The victim notified the police and the offender was later charged.

The victim attended the hospital, and it was discovered she had sustained a displaced

fracture to the neck of the humerus and a displacement of the greater bone module. Because of the nature of the fracture, a cast was deemed inappropriate. Analgesics and a sling were prescribed. On returning to Scotland, the victim underwent extensive therapy for 14 months and was left with a permanent disability which limited the movement and strength in her shoulder. She is capable of performing light duties. Insufficient documentation was presented to enable the Board to make an award for loss of wages.

The offender, a juvenile, pleaded guilty to robbery with violence.

The Board found the victim compensable under section 5(a) of the Act and awarded compensation in the amount of \$4000.00 to be paid to the victim for pain and suffering.

922-012467

This application was brought by the father of the victim, his son, aged 17.

At 7:30 p.m., the victim was walking on the street in Simcoe, when the alleged offender threw a raw egg at him, which struck him in the eye. Part of the broken shell imbedded itself in the eye, penetrating the eye and dislocating the lens and causing damage to the posterior aspect of the eye. This led to loss of vision in the left eye to the extent of 20/200 minus which is practically blindness. He underwent surgery to repair the damage and the lens was removed. Attempts to improve his vision with a contact lens have so far been unsuccessful.

The alleged offender was charged with assault causing bodily harm but found not guilty.

The Board found the victim compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(a) expenses \$132.68 for the contact lenses; 7(1)(d) pain and suffering \$7000.00 payable to the Accountant of the Supreme Court of Ontario until the victim is 21; 7(1)(f) other pecuniary loss \$170.12 for the mother's loss of income and travel expenses to attend the hearing, for a total award of \$7302.80.

922-011577

The applicant was a 36-year-old man living in Sudbury and employed as a miner. At about 7:30 in the evening, he and a friend stopped at a hotel where they encountered a fight in progress involving the offender.

As the applicant turned to walk away, the offender attacked him without provocation, slashing him with the neck of a broken wine

bottle. The applicant attempted to detain the offender but was unable due to loss of blood. He was treated in hospital for slash wounds to his chin, neck and chest and was given blood. He was released later that day to rest at home and returned to hospital in 10 days to have the stitches removed. The wounds took about one month to heal.

The applicant experienced emotional upset due to the assault and is very conscious of the scarring on his chin, neck and chest. He contemplates undergoing scar revision. If and when he does, the Board will consider payment of these costs.

The offender was convicted of aggravated assault and sentenced to nine months in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$2700.00 and 7(1)(f) other pecuniary loss \$82.00 which was the loss of income to attend the hearing, for a total award of \$2782.00.

200-7862

The applicant was 48 years of age and employed as a police detective. On the day in question in Sault Ste. Marie, the applicant and his partner spotted a vehicle whose driver was suspected of planning to rob several locations that night. The applicant and his partner pulled the suspect vehicle over to the side of the road. As the officers approached, the suspect left his vehicle and then dove back into his car head first.

The applicant threw himself on top of the suspect and they grappled with each other, struggling to gain possession of a gun the offender had in his hand. The applicant began to lose his grip on the gun and appealed to his partner for help. His partner fired several shots at the offender, the second one of which struck the applicant. The offender was killed instantly and the applicant was taken to hospital.

The applicant sustained a bullet wound which entered his right forearm, exited at his right hand, re-entered his left palm and exited his left hand. The applicant was given morphine and was transferred to the care of a specialist in plastic and reconstructive hand surgery. On the day following, a surgical procedure was performed on the right hand to repair the ulnar nerve and artery, both of which were virtually divided. An open reduction on the left index metacarpal (finger) was also performed. The applicant was released five days later. The applicant's left

hand healed uneventfully, but his right hand showed little improvement.

Over the next three years the applicant was hospitalized several times for various surgical procedures. These included full thickness skin grafts, amputation of the little finger and ulnar nerve stimulation. Medical evidence indicated that while his left hand was only five percent disabled, his right hand was fifty percent disabled and this was considered permanent. The applicant was left with a considerable loss of power in his right hand and suffers a somewhat painful tingling sensation. The applicant was unable to work for ten months and his loss of income was covered by the Workers' Compensation Board.

The Board found the applicant compensable under Section 5(b) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss-victim \$1500.00 (lost income); 7(1)(d) pain and suffering \$10,000.00; solicitor fee \$750.00 and disbursements \$736.75, for a total award of \$12,986.75.

922-012190

This application was brought by the victim's father. The application was heard on documentary evidence. The incident involved a minor who was the victim of child abuse.

The victim was five-years-of-age and lived with his biological mother and her common-law partner, the offender, in Petawawa. The victim was seriously injured as the result of blows he received from the offender. The victim fled from his home and spent the night in a wooded area nearby. It was raining. When found the next day and examined in hospital, the victim was found to have suffered from a number of injuries. The most medically serious was an abdominal injury which required surgery. There was damage to the intestine which was resected and repaired and which kept him in hospital for almost three weeks. In addition, multiple bruising was noted to the head, face and genital area. Furthermore, there were weeks old healing fractures to six ribs, a fractured shoulder blade, a fracture of the spinal process and a fracture to the radius of the left arm. There was also a ten day old healing fracture of another rib.

Upon release from hospital, the victim was placed in local foster care. The victim was then placed in the care of his paternal grandparents for seven months. As a result of the abuse inflicted upon him and after investigation by the Children's Aid Society, the court awarded custody of the victim to his natural father, the applicant. The victim now lives with his father.

Reports indicate that the victim is doing well, both physically and emotionally.

The offender was convicted of assault causing bodily harm and sentenced to 18 months.

The Board found the victim compensable under Section 5(a) of the Act. The Board awarded the victim compensation in the sum of \$5000.00 to be held in trust until his eighteenth birthday. Further, the Board awarded \$200.00 for fee and \$148.80 for disbursements to the applicant's solicitor, for a total award of \$5348.80.

922-011832

The applicant was 87-years-of age and was injured in a purse snatching incident in the elevator of her apartment in Toronto.

The two alleged offenders grabbed the applicant's purse, and she was abruptly yanked out of the elevator at the 21st floor. She landed squarely on her front on a vinyl tile floor. A fellow tenant came to the applicant's aid and called the police and an ambulance. The applicant was taken to the hospital where she was treated for shoulder strain and an inner underlip laceration and was released within an hour. She experienced severe depression and fear as a result of the occurrence. The applicant has been counselled by her Community Relations Worker and has begun to put the incident 'behind her'.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$2,500.00, for a total award of \$2,500.00.

922-012060

The applicant, age 20, was unemployed.

While walking with a friend in St. Catharines, at approximately 2:00 p.m., the applicant was shot in the abdomen by an unknown assailant. The applicant was taken to hospital by a passing motorist and underwent an operation which involved repair to his small intestine and colon. The bullet is left in his body. The applicant was in hospital for seven days and recuperated at home for approximately two months. He has made a good recovery from his injuries but has been left with three scars to the abdomen.

The assailant has never been found or charged and there is no motive known for the shooting.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$2000.00; 7(1)(f) other pecuniary loss \$10.00; solicitor's fee \$225.00 and disbursements \$31.50, for a total award of \$2266.50.

922-010789

The applicant was a 32-year-old unemployed installer living in Hamilton. He and his wife went to a restaurant for dinner. A dispute arose about the quality of the meal and the slow service. As they were in the process of leaving the restaurant, two offenders pushed the applicant through the outside doorway and dragged him to a nearby parked car. As he stood beside it, he was punched and kicked by the offenders, causing him to fall and hit his head on the road surface, rendering him unconscious.

The applicant was aided by his wife and a passerby who called police and an ambulance. He was taken to hospital where it was noted he had two black eyes and bruising to the right side of his face and had suffered a fractured skull. His behaviour at hospital was peculiar, uncooperative and confused. Against all advice, he signed himself out eight days later.

On the following day, he was seen by his family doctor complaining of severe headaches. The doctor suspected he was suffering from an intracranial condition which might be influencing his behavior. He was then seen by a neurologist who discovered marked post-traumatic communicated hydrocephalus. The applicant was re-admitted to hospital and operated on for a permanent ventricular peritoneal shunt. He was discharged after three days.

The applicant suffered a loss of his sense of smell, and his ability to taste was altered. He suffered a significant personality change which caused severe hardship to his family. Both he and his wife had a series of visits with a psychiatrist and regular visits with the family doctor. The applicant was given various medications which did not improve his behaviour.

For three months after his injury and until he went to work for his father, the applicant was unable to care for his children while his wife went to work. The applicant's wife incurred costs for babysitting services. The applicant has made some recovery, however, he complains of an inability to remember simple instructions and is still nervous of some situations and lacks energy.

The offenders were convicted of assault causing bodily harm. The applicant commenced a civil action but this was abandoned as the offenders were found to be insolvent. An investigation was ordered, by the Board, as to recovery under section 26 of the Act. The application was made after the limitation period but an extension was granted.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$10,000.00; 7(1)(f) other pecuniary loss \$29.42 (travel expenses to hearing); solicitor's fee \$300.00 and disbursements \$11.60 and the applicant's wife (babysitting services) \$1182.15, for a total award of \$11,523.17.

922-010642

The applicant was 25 years old and was unemployed. The applicant and two friends left a hotel in Tilbury and walked to their truck parked on the street.

While the applicant was standing beside the truck, the offender came out of the hotel, walked up to the applicant and without any words being spoken started to kick the applicant, knocked him to the ground and then kicked him several times more. The applicant's friends came to his aid and the offender left the scene. No motive could be established for the assault. Police were notified and the applicant was taken to the hospital.

The applicant sustained a compound comminuted fracture of the right end of his jaw, bruised ribs and dental damage. Surgery was performed to repair the fracture and wiring and arch bars were installed. These were removed seven weeks later. Approximately five months later, a non-union and infection of the fracture occurred, and an emergency incision and drainage was done followed by surgery to remove three impacted teeth and an open reduction of the mandible again requiring wiring and installation of the arch bars. The applicant was hospitalized for a total of 24 days and had a lengthy recovery from his injuries. Some discomfort remains.

The applicant was still awaiting further dental repair at the time of hearing and produced estimates, pricing this work at \$850.00. The Board stated that it would consider payment, not exceeding \$850.00, upon certification that this was completed.

The offender was charged with assault causing bodily harm and sentenced to six months in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses (dental, drugs, travel for treatment and telephone) \$1226.25; 7(1)(d) pain and suffering \$4000.00; 7(1)(f) other pecuniary loss (travel expenses-hearing) \$23.94; solicitor's fee \$300.00 and disbursements \$185.65, for a total award of \$5735.74.

922-011163

The applicant is the widow of the 24 year old victim, who at the time of his death, was employed as a meat cutter. At approximately 9:00 p.m., the victim, together with friends, was seated in his car outside a residence in Corunna, Ontario, when the offender fired a shotgun at the victim's vehicle, killing him instantly. The applicant's claim is for funeral expenses and pecuniary loss to the family unit due to the death of the victim.

The offender was convicted of second degree murder and sentenced to life imprisonment. A motive for the shooting has never been established.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses for the funeral \$1800.00; 7(1)(c) pecuniary loss of victim's income to date \$5255.70; 7(1)(f) other pecuniary loss \$36.75; solicitor's fee \$350.00 and disbursements \$479.25 and a periodic award of \$238.79 per month payable to the applicant subject to review to compensate for the victim's loss of income from date of the order. The total lump sum award was \$7921.70.

922-011356

The applicant, a 55 year old insurance salesman accepted an invitation to visit the Toronto apartment of one of the offenders. He had met her earlier in the month. While at the apartment, he was introduced to two of the offender's friends who admitted to being 'hookers'. After having sexual relations with one of them, he was confronted by another, who was holding a .22 rifle in her hands.

Taking his watch and keys, the women handcuffed him with his hands behind his back and led him to a third floor bedroom. There he was tied with rope around his ankles and neck, gagged and thrown on the floor of a closet. He was struck with an open hand and then with a pool cue over his head and shoulders. He almost choked on his partial plate. The applicant was then strung up on a hook so that he was upside down and one of the offenders tried to smother him with a pillow. Eventually, he was able to free himself and call the police.

The applicant was treated at the hospital for multiple cuts, bruises and abrasions. More serious was the emotional trauma suffered as the result of an incident which the applicant viewed as life-threatening as well as humiliating. He has required extensive psychiatric therapy

since the assault to deal with problems of depression and sleeplessness.

One offender was charged with robbery and the use of a firearm in the commission of an indictable offence and received a year in jail on each charge; one was charged but acquitted; and one was charged with robbery and use of a firearm in commission of an indictable offence and received two years on the first charge and one year consecutive on the second.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$397.25; 7(1)(d) pain and suffering \$5000.00 and solicitor's fee \$400.00 and disbursements \$175.00, for a total award of \$5972.25.

922-010364

The applicant, age 41, a police constable, was on duty when he and his partner responded to a call from Litton Industries plant in Rexdale regarding a parked vehicle with explosives set to go off in 20 minutes. The applicant was about to leave his car to check an insignia on the vehicle. The next thing he recalls was being helped up and taken to an ambulance.

The applicant sustained a fractured left humerus (arm) which was treated conservatively with a sling for two months and a cervical neck strain which required a collar for six weeks and prescribed muscle relaxants. The applicant also experienced a temporary hearing loss of the left ear, severe headaches and occasional dizziness, requiring prescribed analgesics for over a year.

The applicant was readmitted to hospital a year later when he fainted as the result of a severe headache. The applicant had suffered a vasovagal episode and has essential hypertension. The medical report states that it is difficult to say if these may be related to his experience with the Litton bombing, but the applicant did not have headaches until after the occurrence. His blood pressure has settled well with daily medication and analgesics for occasional headaches. The applicant was off duty for a total of eight weeks, but all loss of income was covered by the disability coverage of his employer.

The offender was convicted of igniting a bomb apt to cause serious bodily harm and sentenced to 20 years in prison. Four other persons are awaiting trial.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$5000.00; 7(1)(f) other pecuniary loss

\$586.70 (doctor's reports, hospital records and travel) and solicitor's fee \$275.00, for a total award of \$5861.70.

922-011810

The applicant, a 32-year-old mechanical inspector, employed at Litton Industries was injured when a bomb exploded outside the Rexdale plant.

The applicant was in a hallway about to exit from the plant when the bomb exploded. He was struck by debris and knocked to the floor, where he was found covered by rubble. The applicant sustained multiple facial and scalp lacerations and a deep laceration of the right knee which was cleansed and sutured. A compound fracture and dislocation of the right foot required open reduction with K wire fixation and a cast was required for six weeks. According to medical reports, the foot injury had healed and normal range of movement returned within five months.

He could have returned to work at this time, but he continued to experience persistent episodes of true vertigo for a year. As a result of this occurrence, the applicant was unable to work for one year, but did not sustain a loss of income, by virtue of coverage by Workers' Compensation Board.

One offender was convicted of igniting a bomb apt to cause serious bodily harm and was sentenced to 20 years in prison. Four other persons were awaiting trial.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$4500.00.

922-011101

At approximately 11:30 a.m. the applicant, a 36-year-old machine operator, was driving his car past the Litton plant in Mississauga when a bomb exploded. Various debris, including pieces of metal, was falling on his vehicle. The applicant's head was thrown back over the head rest as the car went out of control.

On instruction from police, the applicant drove to the police station and then later returned home. The next day, he was suffering pain and stiffness of his neck and lower back. He also noted a hearing impairment. He sustained a 50% loss of movement in the neck. He was prescribed analgesics, anti-inflammatory drugs, a neck collar and physiotherapy. He was absent from work approximately three months.

When the neck pain persisted, he was referred to an orthopaedic surgeon one year later. That

surgeon, in a report to the Board, states that the applicant had pain in bending his head forward and that there was a 50% restriction of rotation to the right. X-rays taken the year before revealed some disc degeneration which had not changed on x-rays taken the following year. The surgeon was unable to state whether this degeneration existed prior to the injury. If so, the injury would have aggravated it. The Board held that it was this degeneration which was causing the neck pain and restricted movement. The applicant was treated with a neck collar and seven months later he had full range of movement and no complaints.

The medical report indicated that the applicant was back to his pre-injury state and that the prognosis was moderately good with some reservation because of the degenerative changes. The applicant was absent from work for two weeks nine months after the incident because of stress related to his injury. He suffered from severe emotional anxiety for approximately three months following the explosion.

One offender was convicted of igniting a bomb apt to cause serious bodily harm and was sentenced to life imprisonment. Another offender was convicted on the same charge with the same sentence. A number of other convictions were also registered as a result of this occurrence.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$23.00; 7(1)(b) \$1388.80, being the pecuniary loss of income; solicitor fee \$325.00 and disbursements \$295.00. The Board noted the neck pain for a period of two years and the emotional anxiety for at least three months and made an order under Section 7(1)(d) \$5000.00, for pain and suffering, for a total award of \$7031.80.

922-011623

The applicant, a 43-year-old truck driver was injured as the result of an occurrence which took place in Orillia. The applicant assisted police in apprehending two males suspected of stealing a double-barrelled shotgun. The applicant assisted in the chase of one male and held him for police. It was during this chase that the applicant sustained his injuries. The applicant was commended for his action by the Orillia City Police Department.

The applicant sustained fracturing and a severe contusion of the right knee, which required the use of crutches for five days. He was unable to work for five weeks. According to medical reports filed with the Board, the applicant

continues to have swelling and discomfort which causes him to limp. The report notes that, in the future, the knee will probably develop osteochondritis of the back of the patella or an arthritis of some form.

The Board found the applicant compensable under Section 5(b) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim (loss of income) \$1154.39; 7(1)(d) pain and suffering \$4500.00; 7(1)(f) other pecuniary loss \$35.69 (loss of income to attend hearing), for a total award of \$5690.08.

922-010294

The applicant, then 32 years old, was a police constable with the Metropolitan Toronto Police Department. In the early afternoon, the applicant was on plain clothes surveillance duty observing a demonstration in downtown Toronto. Shots rang out, the applicant went to investigate and the first offender fired a shot at close range which ricocheted off the applicant's shoulder holster. While kneeling and attempting to subdue the first offender, he incurred, a gunshot wound to the back of his head, resulting in a five-inch furrowed laceration to the scalp. Three other persons received gunshot wounds in the course of the same disturbance.

The applicant was treated at the hospital for his injuries. He suffered arterial bleeding but no bony damage. The bleeding artery was tied off and the wound was debrided and cleansed, twenty-five sutures were required to close the wound. The applicant returned to work five weeks later on light duties. He resumed regular full-time duties with his unit nine days later.

The applicant experienced persistent right side headaches, which have now abated and lessened in frequency. He also experienced disturbed sleep patterns, flash-back phenomenon, inability to concentrate and some emotional lability. Except for the above-noted headache problem, the applicant appeared to have fully recovered.

The first offender was convicted of attempted murder and was sentenced to life imprisonment. Both offenders appealed their convictions. On appeal to the Ontario Court of Appeal, the first offender's sentence was reduced to nine years and the second offender's sentence was reduced to 18 years.

Counsel for the applicant informed the Board that a civil suit had been launched against the offender, whereupon the chairman reminded counsel of the Board's rights in subrogation.

The Board found the applicant compensable under Section 5(b) of the Act and awarded

compensation under Section 7(1)(d) pain and suffering \$4000.00 and disbursements \$50.00, for a total award of \$4050.00.

922-010909

The applicant was 31-years-old, lived in Windsor and was employed as a waitress. At approximately 3:15 p.m., she was working at a restaurant in Windsor when her ex-husband, who prior to the occurrence had been continually harassing her, followed her to the coffee stand in the restaurant, grabbed a pot of boiling water and poured it over her.

The applicant was hospitalized for 20 days. She suffered from second to third degree burns to her face, neck and upper arms and a perforation of the tympanic membrane of the left ear, resulting in a 30% loss of hearing in the left ear. Some permanent scarring also remains. The applicant was off work for 44 weeks and there is a possibility that she may require future surgery to repair the injury to her left ear. The applicant was advised of section 25 of the Act, in that an Order may be varied.

The offender was convicted of assault causing bodily harm and sentenced to 30 days in jail plus 12 months probation.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$40.00; 7(1)(b) pecuniary loss \$2470.00; 7(1)(d) pain and suffering \$5000.00; solicitor fee \$250.00 and disbursements \$292.00, for a total award of \$8052.00.

922-010284

The applicant was 49-years-old, lived in Windsor and was self-employed. At approximately 7:30 a.m., the applicant, who operated her own restaurant, was assaulted, bound and gagged and placed in a chest freezer. The alleged offender and his accomplice took the money from the register and fled. Ultimately, the applicant was able to escape from the freezer and in doing so, fell hurting her arm and receiving contusions to her head and body.

Police were called and the applicant was taken to the hospital by ambulance. She was treated for a sprain to her right arm, bruising to her neck and shoulder and emotional trauma. She received physiotherapy for two months and wore a cervical collar for several months. Some physical discomfort and mental apprehension still remain.

The alleged offenders have never been apprehended.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00 (ambulance); 7(1)(d) pain and suffering \$3000.00; solicitor fee \$250.00 and disbursements \$255.00, for a total award of \$3525.00.

922-011080

The applicant, a 54-year-old part-time hospital worker, was visiting her aged mother at the latter's home in Scarborough.

At approximately 8:15 p.m., the applicant responded to a knock on the door by a visitor who asked for her mother by her first name. Believing him to be an acquaintance, the applicant permitted the alleged offender to gain entrance to the house. The alleged offender, smelling strongly of alcohol, demanded food and then money, and the applicant gave him the contents of her purse. He then attacked the applicant. The alleged offender said to be wearing a spiked wristband, struck the applicant at least three times across the face, breaking her glasses, and then attacked the applicant's mother. The alleged offender, having robbed the mother as well, then left and the applicant rushed to the backyard to summon help. They were taken to hospital.

The applicant's nose lacerations were sutured and severe bruising on the forehead and in the mouth area was suitably treated. X-rays were negative. Medical evidence adduced indicates that the applicant continued to suffer the effects of severe whiplash for over two months. The applicant was off work for a period of three months and continues to suffer nightmares and nervous anxiety. A pre-existing condition of Parkinson's Disease was probably aggravated by the unprovoked attack.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$90.00, being the cost of replacement glasses; 7(1)(b) pecuniary loss \$300.00 (wages); 7(1)(d) pain and suffering \$1500.00, for a total award of \$1890.00.

200-9605

The applicant, aged 32, was employed as a hotel and restaurant manager.

At approximately 1:45 a.m., in Niagara, the applicant attended at a residence occupied by the offender, where a rather noisy party was in progress and asked that they cease the noise and rowdiness. An argument ensued, resulting in the applicant being assaulted several times in the face, while the offender held his arms.

The applicant was treated for facial cuts, bruises and a compound fracture of the jaw. An open reduction was carried out and internal wiring was applied. After removal of the wiring two months later, infection set in and further surgery was required. The applicant was unable to work for two months, but made a good recovery.

The offender was found guilty of common assault and received a suspended sentence.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses 2605.42 being \$2557.38 representing wages paid to his substitutes, plus other medical expenses; 7(1)(d) pain and suffering \$3000.00; solicitor's fee \$300.00 and disbursements \$428.02, for a total award of \$6333.44.

922-011157

The application was originally brought by the applicant's father, but at the time of the hearing the victim had reached 18 years of age and became the applicant.

The applicant was 17-years-of-age and was attending a party at a friend's home in Toronto. The offender, who was an uninvited guest, assaulted the applicant by striking him with a beer bottle. The assault was without provocation and caused the applicant to lose his right eye. The applicant was taken to the hospital and stayed there for one week. As a result of the injury, the applicant is now unable to play certain sports, and his career options are limited. As well, the applicant had previously suffered from acute bouts of depression which were exacerbated by the injury.

The offender was convicted of assault causing bodily harm and sentenced to imprisonment for six months.

The Board found the victim compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$9000.00; solicitor's fee \$450.00; and disbursements \$200.00, for a total award of \$9650.00.

922-011552

The applicant, a 23 year old Police Constable was assaulted in Scarborough. The applicant was off duty and was walking his dog when he observed six males carrying plastic pipes that had been taken from a nearby construction site. The applicant identified himself as a police officer and attempted to place one of the males under arrest for theft under \$200.00. The applicant was struck in the face with a brick thrown by this male.

The applicant sustained a major fracture of the nose, a fractured left cheek-bone, a fracture of the left eye-socket, a laceration on the forehead requiring nine sutures and dental damage which required extensive dental repair including wiring of the jaws for five weeks. The applicant was able to return to light duties after two months, and resumed regular duties in three months.

The juvenile offender was charged with assault with a weapon and was committed to a training school.

The Board found the applicant compensable under section 5(b) of the Act and awarded damages under Sections 7(1)(b) – Pecuniary Loss – Victim (lost earnings) \$700.00 and 7(1)(d) Pain and Suffering \$4200.00 for a total award of \$4900.00.

922-012136

At 10:00 a.m., the applicant, age 57, was in the entranceway to the Sherbourne Subway Station in Toronto. Her last memory is of checking the contents of her purse and getting out a token. She was found face down and unconscious a few minutes later by a passerby, who called the police and an ambulance. Her purse was missing and has never been recovered.

The applicant was taken to hospital where she remained for about 20 days. She was treated for a skull fracture, multiple rib fractures and multiple soft tissue injuries. On release from hospital, the applicant was cared for at a home in Willowdale, service for which she paid \$600.00. The applicant returned to work two months later. She did not lose any income during her absence.

There was some indication on file that the applicant had previously suffered from dizzy spells, which might have been the cause of her injuries. The applicant denied this and explained that due to a language difficulty, she had misunderstood the question of the police officer and admitted to being dizzy after the incident. Her work record shows little absenteeism or health difficulties and her doctor who has cared for her since 1978 stated by letter that the applicant had no history of dizziness or episodes of fainting. No arrests have been made as a result of this assault.

The Board considered all the facts before it and concluded that the applicant was a victim of an assault and was compensable under Section 5(a) of the Act. The Board awarded compensation under Section 7(1)(a) expenses \$787.00, being the cost of replacement eye glasses (\$187.00) and the cost of after hospital care:

7(1)(d) pain and suffering \$4000.00; solicitor's fee \$250.00 and disbursements \$177.24; translation services \$160.00, for a total award of \$5374.24.

922-010770

The applicant did not appear at the Board hearing and the Board dealt with the application on documentary evidence in accordance with Section 7 of the Statutory Powers Procedure Act and testimony from the investigating police officer.

The applicant, age 33 and unemployed, claimed he was assaulted at his apartment in Hamilton by a fellow tenant and her brother. He claimed that he sustained a loss of vision in his left eye. At the time of the assault, the applicant notified the police, who responded. He told the investigating officer that he had been assaulted from behind and robbed outside his bank. He could not identify his assailants. Police noticed some bruising and swelling about the eye and nose.

The applicant was taken to hospital and was refused treatment. The hospital alleged that they had received phone calls from the applicant threatening violence. The police remained while the applicant was examined. X-rays were normal but there was some tenderness about the face. Medication was prescribed. No eye damage was noted. The applicant was seen by a specialist; there was no evidence of trauma or loss of vision that could be attributed to an assault. The police officer testified that the applicant was known to police. He had complained of another assault with conflicting accounts of that assault. There was some evidence of mental instability.

The Board noted the conflicting stories about the assault and while the Board was satisfied the applicant had sustained some minor facial injuries, the Board was unable to determine how they occurred or whether they resulted from a crime of violence. The Board denied the application. There was never an offender identified or charged as a result of this occurrence.

922-011664

At 11:45 p.m., the 26-year-old-applicant, a Toronto Transit Commission driver, was seated alone in his bus in Scarborough, awaiting departure time. Two youths knocked on the door and were admitted by the applicant who offered them transfers. The youths demanded the fare box and when the applicant refused, one of the youths produced an eight-inch steel

concrete spike and proceeded to jab and scratch at the applicant on the right side of his face.

In order to defend himself, the applicant grabbed his fire extinguisher to ward them off. The offenders fled. The applicant then called the police and was eventually brought to the hospital by a Toronto Transit Commission inspector. He was treated for superficial abrasions and released at 2:00 a.m.. The applicant was left with a fear of working nights.

No arrests were made.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim (difference between Worker's Compensation and actual wages) \$9.27; 7(1)(d) pain and suffering \$800.00, and disbursements \$25.00 payable to the TTC Legal Department, for a total award of \$834.27.

922-010656

This application was made by the father of the victim, who was eleven years-of-age and thus a minor at the time of his injury.

The victim, his brother and four of their friends – all of whom were between the ages of 11 and 15 – arranged to get together to go hunting for birds and rabbits in a bush area in Sault Ste. Marie. Apparently, all of the boys but one had gone hunting like this before. None of the boys wore special clothing to make them more noticeable in the woods. The victim, his brother and another boy were down in a gully shooting at birds and tin cans, etc. Two other boys were shooting their rifles near the top of the gully. Suddenly, the victim screamed and when the two boys nearest him looked around, he was lying on the ground. He indicated he had been hit in the right eye by a pellet from one of the guns.

Following initial surgery, the victim was transferred to Toronto, where the lens of the right eye was removed. The victim remained at the hospital in Toronto for 15 days. He was able to return to school within a month. He can now play sports again, however, he is apprehensive about his one good eye and this has caused some psychological problems. Approximately a year-and-a-half later, a glass eye was implanted, and he must wear special glasses for the protection of the good eye. The Board noted that the victim received \$4000.00 from the Economical Insurance Company for the loss of sight in his right eye.

No charges were ever laid in this matter as it could not be determined who had fired the

pellet that struck the victim's eye. Moreover, there was no parental support for laying charges under a City By-law prohibiting the discharging of weapons within the city limits. The Board accepted the argument that there was criminal negligence in this case, but pointed out that the victim was a willing participant in the illegal activity. However, the Board noted that the victim was only eleven years old at the time of the incident and not totally responsible for his actions. It invoked section 17(1) of the Act in that the behaviour of the victim may have directly or indirectly contributed to his injury or death and awarded a reduced amount for pain and suffering. The Board considered all the relevant circumstances including the seriousness of the injury, the young age of the victim, and the role of parental responsibility. The Board also stressed that it in no way condones the use of firearms.

The applicant was found compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(a) expenses \$762.88 7(1)(b) loss of income \$1089.88; solicitor's fee \$300.00 and \$3000.00 to the victim payable to the Accountant of the Supreme Court of Ontario for pain and suffering, for a total award of \$5152.76.

922-011624

The applicant, a 34-year-old bus operator, was driving a Toronto Transit Commission streetcar in Toronto, when the offender boarded the streetcar and tendered an invalid transfer. The applicant refused to accept it and an argument ensued.

The applicant was struck on the left side of the face and neck and then punched on the upper right temple. A passenger came to the applicant's assistance and the assailant was subdued until the arrival of the police who had been summoned by a passing taxi-driver. The applicant was taken to hospital by Toronto Transit Commission officials. He was treated for pain in his neck and head and was given medication and the use of a cervical collar. The applicant had substantially recovered within two months when he resumed work on a full-time basis. In total, he missed 35 working days. The offender was charged with assault, convicted, and ordered to pay a fine of \$100.00.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim \$333.84 (total loss \$2,778.56 less \$2,444.72 paid by the Workmen's Compensation Board); 7(1)(d) pain and suffering \$1,250.00 and disbursements \$130.00, for a total award of \$1,713.84.

922-012870

The applicant was 30 years old and employed as a medical secretary in Peterborough. On that date, the offender was a hospital out-patient, who had had an appointment set for the following week with a psychiatrist for whom the applicant worked. She presented herself in the applicant's office and refused to leave until the doctor saw her, though the doctor was not there. The applicant went to lunch and upon her return found that the offender had become quite angry and agitated about not being able to see the doctor.

An hour later, the offender entered the photocopying area, grabbed the paper receiving tray and threw it in the applicant's face. The applicant had to have a laceration to her left cheek sutured. The facial scar healed well and without complication and revision is not considered necessary. The applicant had nightmares for several weeks following the assault, but was able to cope with her emotional upset and fear by talking informally with one of the psychiatrists for whom she works. The offender was convicted of assault causing bodily harm and was fined \$300.00. There was no time off work.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$1000.00; 7(1)(f) travel expenses \$17.30; solicitor fee \$250.00 and disbursements \$17.30, for a total award of \$1284.60.

200-5550

The applicant, aged 49, met with a former employer in Ottawa to discuss the matter of some wages he owed her. After having dinner together, they went back to her motel room where he suddenly became violent and assaulted her. She finally managed to escape from the room. At the hospital, she was observed to have sustained multiple bruises to the body, a laceration to her lower lip and a fractured nose. Her lip was sutured, the nose reduced, and she was kept under observation for 10 hours because of a previous craniotomy done in 1973. She required no further medical treatment for her physical injuries until some seven months later when she had some 'scraping' done by a plastic surgeon to remove a lump over the bridge of her nose. More serious to the applicant has been the emotional anxiety and the fear she still experiences of the offender.

The offender was found guilty of assault causing bodily harm and given a suspended sentence plus two years probation.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$25.00; 7(1)(d) pain and suffering \$2000.00 and 7(1)(f) other pecuniary loss \$44.00, for a total award of \$2069.00.

200-9318

The applicant was 23 years old and employed as a trainee.

At approximately 1:00 a.m., the applicant, together with other friends, including the offender's sister-in-law, were patrons of a hotel in Parry Sound. The offender, who had been drinking, entered the hotel, walked up to the applicant's table, and was informed by his sister-in-law that his presence was not wanted and he was asked to leave. The offender, after threatening his sister-in-law, left to return a short while later with a beer bottle in his hand and threatening to throw some at her. When the applicant intervened, the offender pulled a knife and lashed out, and in doing so the blade of the knife slashed the applicant's right wrist.

The applicant was taken to hospital where it was determined that he had sustained an incised wound to the ulnar aspect of his right wrist which caused a transection of the sensory branch of the ulnar nerve. Surgery to repair was carried out. Due to complications, the applicant was unable to work for six months.

The offender was found guilty of assault causing bodily harm and given a suspended sentence plus twenty months probation. The applicant has initiated civil proceedings. He was advised of the Board's rights of subrogation under Section 26(2).

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00; 7(1)(b) pecuniary loss \$1506.78; 7(1)(d) pain and suffering \$3500.00; 7(1)(f) other pecuniary loss \$63.00; solicitor's fee \$300.00 and disbursements \$166.50, for a total award of \$5556.28.

200-9811

The applicant, a 65-year-old retired male, was driving his son's cab when he picked up two young men at a subway station in Toronto.

The two passengers did not indicate a precise destination and eventually, the driver became suspicious. He stopped and turned the light on when one of the men put a rope around his neck and the other pointed a gun at him and demanded his money. Somehow, he managed to escape from the cab, but as he ran, a shot

was fired which fortunately did not strike him. He got help at a nearby house and contacted a police. He was treated for a rope burn to the neck and was prescribed valium by his family doctor for his nerves, and was seen by a psychiatrist and psychologist. He had been under a great deal of stress since a motor vehicle accident a year earlier and the assault aggravated his condition.

The two offenders were found guilty of robbery and sentenced to 2-1/2 years and 4 years respectively.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim \$1,000.00 (wages); 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) other pecuniary loss \$10.00 (Police report), for a total award of \$2,010.00.

200-8481

At approximately 1:30 a.m., the applicant, a 20-year-old steelworker was assaulted with a tire iron by the offender. The assault took place when one of the applicant's three companions, alone in his car, attempted to back out his vehicle which was parked closely to the offender's in a restaurant parking lot in Hamilton.

The applicant was treated for a depressed frontal skull fracture, a through fullness right ear laceration, right eye haematoma, and scalp laceration. The applicant was unable to work for three months, and was left with scars on his forehead, below his right eye and on his right ear. He still suffers from occasional blurred vision and spots in his eye, as well as swelling. There is a possibility of future temple bone reconstruction to remove floating bone fragments.

The offender was sentenced to 18 months in jail and five years prohibition of possession of weapon. The Board will consider payment under section 25 of the Act if medical expenses are incurred in the future.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00; 7(1)(b) pecuniary loss \$1,323.92; 7(1)(d) pain and suffering \$3,500.00; solicitor's fee \$300.00 and disbursements \$300.50, for a total award of \$5,444.42.

922-010907

The applicant, age 79, was standing on the platform of a subway station when two young

men engaged in horseplay, pushed her over the edge onto the tracks.

Bystanders lifted her up and off the tracks and she was taken to hospital. She was treated for fractured ribs on her right side, abrasions and contusions to her right elbow and arm, knees and lower legs. She was released in the care of her family where she remained for several weeks before being able to return to her own home. It was three months before she was able to resume her previous activities. The applicant suffered anxiety and nightmares and still has occasional soreness in the ribs.

The alleged offender was charged with criminal negligence causing injury, but the charge was dismissed at the preliminary hearing because of insufficient evidence.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00; 7(1)(d) pain and suffering \$2,100.00, for a total award of \$2,120.00.

200-9117

The applicant, 36-year-old quality control inspector, was the victim of a stabbing in the lobby of an apartment building in Toronto. There were conflicting accounts given by the applicant. Persistent investigation by the police revealed that the applicant had been harassing his assailant's wife. The applicant had shown up at the wife's apartment building and upon discovering him there, the assailant stabbed the applicant in the upper right quadrant of the abdomen. The applicant was taken to hospital where he was treated for a gross haematoma of the liver. The applicant will suffer recurring problems as a result of this injury. The Board considered the extent of the applicant's injuries, the conflicting stories offered by the applicant, his behaviour with regard to the wife of the assailant, and his general lack of credibility and forthrightness during his testimony.

The Board denied compensation citing Sections 17(1) and 17(2) of the Act, where the Board has discretion to deny compensation having regard to the behaviour of the victim and/or his lack of cooperation with the police.

922-011240

The applicant, a 30-year-old store detective, was assaulted in Toronto by her husband.

The incident took place in a club the applicant had attended with another couple. They met the applicant's husband there. During the evening, he became abusive and began punching the applicant while she was seated at a table with

her friends. The applicant was assaulted a second time as she attempted to leave the club escorted by friends.

The applicant sustained soft tissue injuries to the rib area, tibia and neck and a human bite on the right elbow. The applicant was unable to work for one week and had recovered from this assault within six weeks.

The offender was charged with common assault. He received a suspended sentence and was placed on 12 months probation.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$1,600.00; 7(1)(f) other pecuniary loss (doctor's reports) \$115.00; legal fee \$200.00 and disbursements \$25.00. A supplementary order was made, compensating the victim for one week's pay lost as a result of the injury. The total award was \$2,170.00.

200-8894

At approximately 1:30 a.m., the applicant, a 35-year-old salesman, was beaten and robbed by the two offenders in Toronto. He had apparently met the offenders earlier in the evening at a tavern where he had gone for a few drinks after dinner.

When he left the tavern, the applicant decided it would be better to take a cab, since he felt he might be considered legally impaired to drive his own car. When the two offenders drove by and offered him a ride, he accepted. A few minutes later when he became suspicious of their intentions, the applicant jumped from the car at a red light. His assailants eventually caught up with him and robbed him of his wallet and jewellery. While doing so, they twisted his arm behind his back and kicked him in the face and body. Afterwards, the applicant went into a nearby apartment building and had the superintendent call the police.

The applicant suffered a laceration to the lip, which required suturing, a black eye, and a comminuted fracture of the upper left arm. The fracture was not displaced enough to require an open reduction but was treated instead with a sling, analgesics, cold compresses and physiotherapy. The sling was worn for 23 days and the applicant attended 29 physiotherapy sessions up until April, 1981. The arm has now fully recovered except for occasional pain under physical stress or weather influences. The applicant was also very emotionally upset by the incident.

The offenders were convicted of assault causing bodily harm and sentenced to six

months in jail plus one year probation. They were also ordered to pay \$1,200.00 in restitution for the articles and money stolen from the victim.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss \$1,000.00 (an arbitrary award for loss of income as the Board could not substantiate a definite loss); 7(1)(d) pain and suffering \$3,000.00; solicitor's fee \$350.00, for a total award of \$4,350.00.

922-011509

Publication prohibited and in camera. The applicant was 37-years-of-age and was employed as a chef. On that date, the applicant and others were invited by a male friend to see his apartment in Toronto. The applicant and his friend were joined by two other males who were unknown to the applicant. They were in his friend's apartment a short time when the two males assaulted and robbed both the applicant and his friend.

The applicant attended hospital and was treated for a stab wound to the abdomen which required a laparotomy. He was in hospital for one week and made an uneventful recovery. He also sustained a deviated septum which subsequently required surgical correction. The applicant had suffered chronic depression since 1980 and the assault aggravated his condition and he experienced severe depression, anxiety and disturbing nightmares requiring further supportive therapy as well as prescribed medication. The applicant still requires medication. The applicant indicated he was still nervous when alone. In addition, the applicant stated that he had been unable to work for 35 days.

The first offender was convicted of wounding and robbery and the second offender was facing trial for charges of attempted murder and robbery.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$121.50 (drugs, ambulance); 7(1)(b) pecuniary loss-victim \$1397.10 (loss of income for 35 days); 7(1)(d) pain and suffering \$4500.00; 7(1)(f) other pecuniary loss \$10.00 (travel to hearing), for a total award of \$6028.60.

922-010911

In Niagara Falls, at about 8:00 p.m., the applicant, a 30-year-old police officer was awakened by his wife who had received a call from a neighbour complaining of a man yelling

and cursing outside. At that moment, the applicant's daughter ran in to report that the man was now damaging his wife's car.

The applicant went outside to investigate and consequently made an attempt to arrest him. The offender then assaulted the applicant and a scuffle ensued and lasted 20 minutes until the offender was subdued. The applicant sustained bruises to his groin and right hand. He also received a severe injury to his left knee which had been hurt and operated on in 1978.

The applicant was off work for over six months and was prevented from returning to his regular duties because of the permanent damage that had occurred. He now works in a clerical capacity for the same police force. The applicant has been left with a limp and pain which he suffers mostly during damp weather. He has had to give up his sports activities and pastimes, and constantly maintains a diet to relieve strain on his left leg from his weight. He was unable to maintain the upkeep of his property and has moved to a townhouse. He also has difficulty coping with the change from his previously perceived strength to what he now finds as a limited disability.

The offender has been committed to Penetanguishene and to date is found unfit to stand trial.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$4,500.00.

922-012025

The applicant, who was 29-years-old and employed as a receptionist, was the victim of an assault committed by the offender with whom she was living at the time. They were at a dinner party returning home at about 3:00 a.m. and became engaged in an argument concerning their dog.

The applicant decided to sleep in another bedroom but was awakened sometime later by the offender who picked her up to carry her. She struggled and was struck in the face, knocking her to the floor. She struck her face against a piece of furniture. He also kicked and choked her. She attended at the hospital the next day, where she was treated for contusions to her jaw and released. Although she did not notify police of the occurrence, she did see a justice of the peace and laid a charge of assault against the offender who pleaded guilty and was sentenced to seven days and six months probation. The applicant may require plastic surgery to correct the scar inside her lower jaw.

She was advised of section 25 of the Act which provides that the Board would consider payment of any medical fees over OHIP allowance, providing the surgeon advises the Board that surgery is necessary and was directly attributable to the injury she sustained as a result of the offence.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$1,500.00, for a total award of \$1,500.00.

922-012542

The applicant was 27 years-of-age and was employed as a waitress. She left the tavern in Windsor where she was employed, and was walking to get her car, when she was accosted by two men in a car. The applicant ignored them and continued walking but they drove up behind her and the offender grabbed her by the hair and pulled her towards the car. The applicant screamed and started to struggle. The offender slapped her in the face and the applicant fell to the ground. The offender tore open her blouse, kicked her and began pounding her head against the ground. The applicant then consented to go with the offender, but when they passed her car she jumped in but she was unable to lock the door. The offender then assaulted her again. At this point, an off-duty police officer came along in his car, stopped and then chased the offender, who fled. The applicant was taken to hospital where she was treated for loss of hair, a bruised right hand and forearm, tender neck and shoulder muscles and for severe emotional trauma. The applicant made a good recovery from her injuries but required counselling for her emotional upset. She was unable to work for one day.

The offender was convicted of assault causing bodily harm.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim \$60.56 (loss of income); 7(1)(d) pain and suffering \$2500.00; 7(1)(f) other pecuniary loss \$11.00 (doctor's report and certificate of conviction), for a total award of \$2571.56.

922-012047

Publication prohibited and in camera. The applicant was 18 years-of-age and a hospital employee. On that date, the applicant and her cousin were patrons at a private club in

Chatham. The offender who was unknown to the applicant was also in attendance at the club. Shortly after 4:00 a.m., the applicant decided to go home while her cousin chose to stay. The applicant began walking the 4-1/2 blocks to her home. While on her way, a car pulled up behind the applicant, and the offender got out, grabbed her, threatened her, and forced her into his car, where she was beaten. The offender drove her to a country side road, made her undress and then sexually assaulted her. After the assault, she was allowed to dress and the offender returned her to the city where she was let out of the car. The applicant ran to the nearest house and police were notified. The applicant was taken to hospital where she was treated for facial and body bruising, scratch marks and emotional trauma. She had a good recovery from her physical injuries but she required counselling for her emotional upset. She was unable to work for 4 days.

The offender was convicted of sexual assault.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim \$90.00 (loss of income); 7(1)(d) pain and suffering \$3500.00, and to counsel for disbursements \$109.40, for a total award of \$3699.40.

200-9307

The applicant, a 58-year-old Toronto Harbour Commission employee was assaulted in his apartment. The applicant was having a drink with the offender's common-law wife, whom he had recently met and who had invited herself to his home. The offender, a recently hired superintendent of the building, opened the door by means of a passkey and forced the safety chain. He assaulted the applicant with a metal handle from a mop pail, then fled from the scene.

The applicant suffered contusions to his eyes, ribs and kidney, a retinal edema (eye) and swollen lips. His most lasting injury was to his left shoulder, exacerbating a suspected condition of bursitis or arthritis. The applicant was unable to provide the Board with any proof or statement of lost wages, claiming he had never told his employers the reasons for his continual absenteeism. Also, he was not able to provide a doctor's report, stating the reasons for which he was unable to return to work, until such time as he did so. The Board advised the applicant of the possibility of adjournment, but the applicant chose to continue the hearing based on pain and suffering only.

The offender was convicted of break and enter and assault causing bodily harm and given a suspended sentence plus one year probation.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$2500.00, as the total award.

200-9872

The applicant, a 50 year old caretaker was asleep in his apartment, when he was aroused by a knock on his apartment door. Almost immediately thereafter, the door was kicked open and four men entered the applicant's apartment demanding that he supply them with alcoholic beverages. Because the applicant was unable to comply with their request for alcohol, the four men administered a severe beating to the applicant, leaving him bloodied and hiding in the bathroom. Police were called by neighbours, and were able to arrest the offenders before they could escape.

The applicant was taken to the hospital by ambulance and then released. His family then took him to another hospital where he received treatment for his injuries. These were: (1) a fracture of the left cheek-bone and orbital floor (2) fracture of the nose and (3) minor lacerations and bruises. In addition, the applicant suffered from headaches and dizziness for a substantial period of time and also some mild hearing loss. He underwent two surgical procedures and still has residual problems with regard to hearing and breathing. The applicant was notified that the Board would consider payment for any further treatment necessary in regard to injuries related to this occurrence on presentation of the appropriate documentation.

The four offenders were jointly charged with robbery. Two of the offenders were found guilty and sentenced to eighteen months and twelve months in jail. The other two offenders were found not guilty.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00 (ambulance); 7(1)(b) pecuniary loss – victim \$722.97 (loss of income); 7(1)(d) pain and suffering \$3500.00, for a total award of \$4,242.97.

200-8719

The applicant was a 33 year old welder. After having visited a relative in Toronto, the applicant was driving home when the driver behind him began honking the horn. The applicant was unable to switch lanes due to heavy traffic and eventually turned off the road at an exit.

The offender drove past the applicant, cut him off and forced him to stop. The offender got out of the car and began hitting the windshield of the applicant's car. The applicant got out in order to stop the offender and was assaulted. The offender then left. Two people came to the applicant's aid, and police and an ambulance were called. The applicant was able to give a description of the offender's car and a partial license plate number to police. Eventually, an arrest was made.

The applicant was treated for concussion, bruised left eye and bruised kidneys, contusions to the left chest. He was in hospital for 11 days so that injury to his spleen could be ruled out. Within two months the applicant's injuries had been resolved, though he suffers occasionally from a sore left side. There was no claim for loss of income. The applicant was laid off at the time of the incident.

The offender was convicted of assault causing bodily harm and sentenced to 14 days in jail. On appeal the charge was dismissed.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$79.30 (ambulance and medical expenses); 7(1)(d) pain and suffering \$1850.00 and 7(1)(f) other pecuniary loss \$30.00 (loss of income to attend hearing), for a total award of \$1959.30.

922-011427

The applicant, who was 31-years-of-age and unemployed, was stabbed twice in the upper left arm by the offender. The offender had lived with the applicant for about one week prior to the occurrence when the applicant found out that she was using drugs and asked her to leave her premises.

The offender, who had left during the day, returned that evening to obtain her clothes and when she got into the apartment, she stabbed the applicant twice. The applicant sustained two scars over the upper left arm and according to the medical report, the pain in the arm continues and will remain a chronic problem.

The applicant was afraid to press charges due to the violent temper of the offender. The police, however, laid a charge of weapons dangerous and the offender was sentenced to six months.

The applicant was found compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$1100.00; solicitor's fee \$200.00 and disbursements \$131.75, for a total award of \$1431.75.

922-011561

The applicant, a 34-year-old part-time clerk, was injured as the result of a robbery which took place in St. Catherines. The applicant was delivering the deposit bag containing approximately \$2000.00 when the offender grabbed the deposit bag and assaulted the applicant, knocking her to the sidewalk. The applicant sustained multiple bruises to her arms and legs, a cervical soft tissue injury, right sacroiliac strain and considerable emotional upset. The assault aggravated a previous back condition which caused severe lower back discomfort. The applicant cannot participate in sports, exercise or perform all her household tasks. She became apprehensive and had difficulty sleeping for several months. The applicant's loss of income and other related expenses were covered by the Workers' Compensation Board.

The offender was charged and convicted of robbery.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$2500.00 and to her solicitor for fee \$250.00 and disbursements \$532.00, for a total award of \$3282.00.

922-011413

The applicant, age 41, is the wife of the applicant in File No. 922-011412. In Toronto, the applicant was assaulted when she came to the assistance of her husband who was being assaulted by male offenders, one of whom had urinated and exposed himself in front of the applicant and her friend. The applicant suffered a laceration to her upper left eyelid which required two sutures, abrasions to her legs and left arm and tenderness to the lower lumbar (spinal) area. The injuries healed within six weeks and the applicant was able to return to work at her husband's store immediately after the incident.

Charges against the alleged offenders were withdrawn presumably because they had been convicted of the assault on the applicant's husband.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering of \$700.00; solicitor's fee \$150.00 and disbursements \$80.00, for a total award of \$930.00.

922-012308

The applicant was 43 years of age, a school teacher and lived in Windsor, Ontario.

Early in the morning on the date of the occurrence, the applicant was awakened by the sound of breaking glass and a 'banging' in her house. She left her bedroom and entered her living room in time to see flying glass and the figure of an intruder entering through the window. Presuming that the intruder intended to do her harm, the applicant escaped to her bedroom. She attempted to notify police but was too hysterical to give her address and ultimately, the police arrived after being notified by neighbours. The applicant attended hospital where her physical condition was checked. She developed a severe stutter in her speech and varying degrees of anxiety and fear particularly in coping with crowds and strangers. The Board found, on the balance of probabilities, a casual link between the break-in by the intruder and the trauma manifested by the speech impediment.

Five months later, the applicant was able to resume teaching. The Board noted however, a guarded prognosis which told a story of social and emotional withdrawal and increased stuttering in stressful and new situations.

The Board denied the applicant's claim for pecuniary loss during her 45 day convalescence as she was paid through a Sick Benefit Plan.

The offender was found guilty of mischief.

The Board found the applicant compensable under Section 7(1)(d) pain and suffering \$4000.00 and to the solicitor for fees \$100.00 and disbursements \$335.00, for a total award of \$4435.00.

922-011141

The applicant was 47-years-of-age, a taxi driver and living in Toronto. He was assaulted by a passenger in his cab.

The offender ripped the microphone from the cab and then kicked and punched the applicant, as well as hitting him over the head with the microphone. The offender fled and the applicant was able to call for help. The applicant was taken to the hospital where he remained for ten days. He suffered multiple bruises and abrasions, a minor concussion and a fractured left ankle. The ankle was in a cast for two months and it was three months before the applicant could return to work. He also suffered from post-traumatic depression. The applicant claimed that his dentures had been damaged and the Board advised that upon confirmation from a dentist along with an estimate for the repairs, the Board would cover the expense pursuant to Section 25 of the Act.

In addition, the applicant agreed to submit his previous two years' tax returns so the Board could consider an award for lost wages.

The offender was convicted of assault causing bodily harm.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$71.25 (crutches, drugs); 7(1)(d) pain and suffering \$4000.00 and 7(1)(f) other pecuniary loss \$225.00 (hospital records, hospital reports), for a total award of \$4296.25.

200-5702

The applicant, a 33-year-old Toronto Transit Commission bus operator, was on duty when two male passengers boarded his bus and began using obscene language. The bus operator cautioned the men, but they continued to use obscene language in very loud voices, causing concern to the passengers.

The applicant stopped the bus and told the men to get off. They refused and the applicant left the bus and called police. The two males then assaulted the applicant with their hands and feet. The applicant sustained multiple abrasions and contusions to his head, face, knee and hand. His wounds were cleansed and x-rays revealed no fractures. He was able to return to duty in four days time. His loss of income was covered by Workers' Compensation Board.

The offenders were convicted of assault causing bodily harm and each sentenced to three months in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss \$6.20; 7(1)(d) pain and suffering \$400.00 and disbursements payable to the TTC Legal Department \$20.00, for a total award of \$426.20.

922-010946

The applicant was 20-years-old, unemployed, and lived in Sault Ste. Marie.

Shortly after midnight, the applicant, who is an epileptic, was waiting for his friend who was using the telephone in a phone booth, when he took an epileptic seizure and as a direct result of his medical condition kicked in the side of the phone booth. Shortly thereafter, the offender, who is known for his violent temper, came by. An argument ensued between the offender and the applicant and the offender pushed the applicant through a glass door of a nearby grocery store and then struck him with a baseball bat and fled the scene.

The applicant suffered a fracture of the mandible (jaw) requiring surgery and installation of interdental wiring which was removed six weeks later. The applicant also suffered a comminuted fracture through the base of the metacarpal of the right thumb to which a cast was applied. Several months later, after complaints of persistent pain, it was discovered that the thumb fracture had developed non-union. Surgery was performed and a plastic implant installed. He made a good recovery from his injuries.

The offender was charged with weapons dangerous and assault causing bodily harm and sentenced to 90 days in jail concurrent on each charge and prohibited from carrying a weapon for five years. The applicant was charged with mischief to private property with regard to the damage to the telephone booth and was given a conditional discharge plus probation for three months.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00; 7(1)(d) pain and suffering \$2500.00; solicitor's fee \$225.00 and disbursements \$345.00, for a total award of \$3090.00.

922-011817

The applicant was a 49-year-old recipient of Mother's Allowance living in St. Catherines.

As she answered the door of her home, the offender demanded to be let in and said she was going to harm the applicant's daughter. The applicant refused to allow the offender to enter. The offender became enraged and pulled the applicant by her hair down a few steps, and then sat on her and banged her head repeatedly on the pavement.

The applicant sustained injuries to her right rotor cuff affecting the supra and infra spinatus, the sub-scapularus (shoulder blade) and teres minor/major muscles. However, for several months after the incident, the applicant experienced pain and functional limitations. The applicant also sustained ligamentous injuries to the cervical spine resulting in mechanical instability. This allowed her disc material to bulge intermittently exerting pressure on the dura mater causing pain in the neck and head. This has caused disability such that she is unable to perform any physical activities that require frequent turning of her head. Her prognosis is poor. The applicant has since been unable to work at her part-time job of house cleaning.

The offender was sentenced to 30 days in jail plus two years probation for assault causing bodily harm.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss to the victim (24 months at \$100.00) being the net loss in wages, \$2400.00; 7(1)(d) pain and suffering \$3000.00; solicitor's fee \$300.00 and disbursements \$347.64, for a total award of \$6047.64 plus a periodic award of \$100.00 per month, to be paid until she is 65 years old, subject to periodic review.

922-012071

The applicant was 62-years-old, a disability pensioner, and lived in London, Ontario.

At approximately 6:45 p.m., the applicant was on his way home when, without any provocation, he was assaulted by the two offenders. They struck the applicant in the face and when he fell, kicked him several times around the head and body, robbed him and then fled the scene. The applicant suffered severe facial cuts and bruises which required suturing, fractures of both zygomatic arches (cheekbone) and the infraorbital margins (eye injury) with minimal displacement not requiring surgery.

He also suffered an aggravation of a pre-existing back problem. As the facial pain and discomfort did not subside it was discovered that as a direct result of the assault, the mandible (jaw) had become infected. The applicant was admitted for surgery where a wire from an old injury of the mandible was removed. He was hospitalized for seven days and is now left with some facial pain and numbness.

The offenders were charged with robbery and sentenced to six months in jail each.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$2000.00, for a total award of \$2000.00.

922-011651

The applicant was 21-years-of-age, employed as a machine operator in an electronics plant and residing in Carrying Place.

The applicant had gone to a hotel in Trenton with several friends and there was introduced to the offender. As the applicant was preparing to leave, the offender asked her for a ride home since he lived in her direction. Though she had some qualms about doing so, she was reassured by her friends who claimed to know the

offender well. The applicant drove to a milk store to buy a pack of cigarettes and the offender insisted on going in to buy the cigarettes as payment for the ride.

On returning to the car, the offender offered one of his own cigarettes to the applicant and appeared to be retrieving her pack from his pocket, but instead took out a knife and held it to the applicant's throat while pulling her head back. He told her to drive to an isolated area behind the armed forces base. The applicant stalled for time and when she began crying, the offender burned her hand with his cigarette. She then managed to get her car door open, landed on the ground and escaped.

Medical evidence showed that at the time of the occurrence the applicant was undergoing psychological treatment. The assault severely complicated this process and had a serious impact on the progress she had made to that point. The stress situation lasted three months and only then was emotional stability regained. The applicant missed 18 days of work which was not covered by employee sick benefits.

The offender was convicted of assault with a weapon and sentenced to eight months in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$156.00 for travel for treatment and expenses over OHIP; 7(1)(b) pecuniary loss \$478.97 for lost income; 7(1)(d) pain and suffering \$1500.00; 7(1)(f) other pecuniary loss \$72.66 for travel expenses to the hearing, for a total award of \$2207.63.

922-011717

The applicant was 19-years-of-age and employed as a gas station attendant.

While working at a gas station in Sault Ste. Marie, two men entered the premises and demanded money. The applicant advised them he only had access to the money in the cash register and that the rest was in a safe to which he did not have access. The two offenders took the available money, then ordered the applicant into a back room. As he turned toward the back room, one of the offenders shot him in the thigh. The offenders then fled.

Police were notified and the applicant was taken to hospital where he was treated for a gunshot wound to the right thigh. The bullet passed through his leg and no surgery was required. The applicant was unable to work for 23 days but made a good recovery. His lost wages were recovered from the Workers Compensation Board.

The offenders were convicted of robbery, weapons dangerous and wounding.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00 (ambulance); 7(1)(d) pain and suffering \$800.00; solicitor's fee \$125.00, for a total award of \$945.00.

922-010660

The applicant was 21-years-old, a student, and was doing part time work. At approximately 1:00 a.m., he and some friends were socializing in a pub in Ottawa University in which the applicant and his friends were students. The offender and his friend were also in attendance and had become somewhat obnoxious and were asked to leave by the staff.

The applicant and his friends left the pub and while the applicant was using a phone on the premises, the alleged offender approached the group and indicated he wished to buy drugs. When told there was none, the alleged offender left and scuffled with a friend of the applicant. When the applicant attempted to act as a peacemaker, he was stabbed three times. He was hospitalized for five days. He sustained a stab wound to the left chest, left abdomen and left back and a large hemothorax (bloody fluid) in the left chest. A chest tube was inserted and some was removed 36 hours later. He made a good recovery although some body scarring remains.

The alleged offender was charged with assault, but acquitted.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss \$128.00 being net loss of wages for 4 days; 7(1)(d) pain and suffering \$3500.00; 7(1)(f) other pecuniary loss \$203.00 being doctor's reports and travel expenses; solicitor fee \$150.00 and disbursements \$51.25, for a total award of \$4032.25.

922-011519

The applicant, a 28 year old quality control operator, was drinking in the company of acquaintances in a hotel in Owen Sound. The offender and a friend were among the patrons on this evening.

An argument developed between the applicant and the offender as a result of the offender making disparaging remarks about the applicant to the applicant's wife. Some scuffling ensued among members of the group as they left the hotel, but this was broken up. After departure,

while the applicant was in his car and stopped at a red light, the offender's companion kicked the side of the car. The applicant jumped out of his car and the offender knocked him to the ground with a punch and then proceeded to kick him in the face and body. The offender then fled.

The applicant sustained fractures on both side of his jaw, necessitating wiring of the jaw for seven weeks, lacerations to the face and chin, severely bruised ribs and a laceration of the tongue. He suffered some discomfort especially in regard to the wiring of his jaw and the problems with eating. He also suffered some dental damage as a result of this occurrence and received treatment for some, in conjunction with treatment for other dental problems not attributable to this occurrence.

The offender was convicted of assault causing bodily harm and sentenced to one year in prison. The applicant was apprised of Section 25 of the Act in regard to future dental work.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$167.50 for dental treatment and expenses above OHIP; 7(1)(b) pecuniary loss \$991.00 which was net loss of wages for seven weeks; 7(1)(d) pain and suffering of \$2000.00; 7(1)(f) other pecuniary loss \$79.38 for travel to the hearing; solicitor fee \$300.00 and disbursements \$287.88, for a total award of \$3825.76.

922-012740

The applicant was 59-years-old, unemployed, and lived in Kingston.

At approximately 6:30 p.m., the offender, an acquaintance whom the applicant had not seen for several years came to the applicant's home for a visit. After a short visit, the offender left to return at approximately 10:55 p.m. and asked to stay overnight. The applicant who was expecting company refused this request and asked the offender to leave and opened the door. The offender then pulled a knife and stabbed the applicant several times and then fled. The applicant was hospitalized for five days. He suffered from multiple stab wounds to the chest, back and left pneumothorax (pleural cavity). Suturing was carried out and chest tubes inserted. Some were removed before the applicant was discharged from hospital. The applicant made a good recovery but some body scarring remains.

The offender was found guilty of assault with a weapon and sentenced to two years.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$3000.00; 7(1)(f) other pecuniary loss \$31.00 for travel to the hearing; solicitor fee \$300.00 and disbursements \$165.50, for a total award of \$3496.50.

200-1659

This application was originally begun by the applicant's father on behalf of the 10-year-old victim. The application was abandoned by the father and his solicitors in 1978, when correspondence was discontinued. The victim, now 20-years-old, has pursued the application himself with his solicitors.

The applicant was a 10-year-old student living in Toronto. At approximately 5:00 p.m., he was going on an errand for his mother when he was suddenly struck by a pellet-like object in the side of this head. The missile was propelled from a distance of about of 40 feet by a slingshot or some type of pellet gun. There was no loss of consciousness.

The boy ran home and his father extracted the object from his cranium before going to hospital. It was diagnosed that the missile had penetrated more than two centimetres into his head. He was taken to the operating room on the day of admission, and a debridement of the wound was carried out. He remained in hospital for one month. During that time he was given analgesics for headaches and anti-convulsants to decrease the risk of seizure. He was continued on the anti-convulsant medication for two years. Although there was some concern about his vision, in particular a right field defect, it is fine today and he does not wear glasses. The applicant, who is now 20-years-of-age, says he now has only an occasional feeling of pressure which he experiences at the back of the head. Otherwise he has made a full and satisfactory recovery.

The offender (who was 13) was found guilty of intent to wound and possession of weapons dangerous.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$3000.00.

922-011572

The applicant, a 24-year-old grinder operator, was in a Kitchener club where shuffleboard was being played. The offender was sitting on the board and refused to allow the applicant and his companion to play. The applicant

approached the offender and remonstrated with him for not moving. A scuffle ensued, in the course of which the applicant was stabbed twice by the offender, who was armed with a knife.

The applicant sustained two stab wounds, one to the chest and one to the back and was in hospital for one week, four days of which were in intensive care. He was off work for a total of three weeks. The offender was charged with wounding and was sentenced to 18 months in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00; 7(1)(b) pecuniary loss \$177.54; 7(1)(d) pain and suffering \$2500.00; 7(1)(f) other pecuniary loss \$18.00. An interim order for a doctor's report was made under section 22 of the Act for \$100.00. The total award was, therefore, \$2815.54.

922-010547

The applicant, a 34-year-old self-employed taxi cab driver was stabbed four times and robbed of \$125.00 by two passengers whom he had picked up in the early hours of the morning on the date of the occurrence.

One offender grabbed the applicant and stabbed him in the chest with a knife. The other offender then clubbed him over the head and stabbed him in the back. The first offender then stabbed the applicant twice more in the back. The wounds to the applicant's back and chest were treated at hospital, following which he was treated for emotional trauma. He was released after two days.

One of the offenders was not able to be identified. The other offender was charged with wounding and sentenced to 8 years in prison.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00 and 7(1)(d) pain and suffering of \$1000.00, for a total award of \$1020.00.

922-010977

The applicant, aged 38 and a metal polisher, was assaulted by his nephew in Toronto. Prior to that date, the nephew had lived in the applicant's one-bedroom apartment, along with the applicant's brother and his family who were recent immigrants. Because of personal problems, violent arguments, etc., the nephew and brother's family moved out of the apartment. The nephew attacked the applicant and his brother with two serrated-edge knives in a parking lot after they had visited the new

premises, and had been asked to leave after a dispute.

The applicant was taken to hospital and was treated for stab wounds to his chest and multiple lacerations to the forearms. He also suffered injury to the ulnar nerve of his left forearm, and was in hospital for nine days. Medical evidence indicates that the applicant was able to return to work some 3-1/2 months later. During convalescence, the applicant collected unemployment insurance, which was more than he earned as a net salary. He also received General Welfare Assistance. His claim with respect to loss of income did not substantiate a loss.

The offender was convicted of wounding.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses, \$20.00 (ambulance), and 7(1)(d) pain and suffering, \$2000.00, for a total award of \$2020.00.

922-012170

The applicant, aged 20, claimed that he was assaulted at a tavern in Toronto at approximately 11:00 p.m.. He claimed that this assault took place in the parking lot of the tavern by an unknown assailant who has never been identified.

The applicant went to hospital and was found to have fractures of the left facial bones. These fractures required operative procedures to correct. The applicant stated to police that he was not sure when or where he got hit or really if he got hit at all. He told the officer he might have fallen. He did not cooperate with police. His original version was he was attacked at the tavern and then he said he was attacked in the parking lot of the tavern. The applicant admits drinking very heavily on the night of the assault. He claims amnesia for the period after the assault and even for several days after and yet he was able to direct the taxi to take him to his correct address at home.

The Board found that based on the many inconsistencies in the evidence, it was unable to establish that a crime of violence within the meaning of Section 5 of the Act had occurred.

922-010511

The applicant, a 19-year-old employed consultant, was injured in an occurrence in Toronto. The applicant was assaulted by a male who claimed he would assist her in finding an apartment to rent. The applicant was beaten with a gun. The applicant attempted to flee and

two passersby came to her aid. Police were notified.

The applicant sustained a fractured left collar bone (clavicle) which required strapping for six weeks. The applicant continued to experience pain and discomfort and subsequent tests revealed a non-union of the fracture. She still experiences discomfort in cold and damp weather. The applicant also suffered from severe emotional trauma and sought psychiatric treatment. The applicant's condition has improved, and she has discontinued treatments.

The offender was convicted of assault causing bodily harm and possession of a dangerous weapon.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$297.60 (medical reports); 7(1)(d) pain and suffering \$5000.00 and 7(1)(f) other pecuniary loss \$616.60 (travel expenses to hearing and doctor's report), for a total award of \$5914.20.

922-011152

The applicant was 32-years-old and a police constable. He was assaulted while on duty in Toronto. He was assisting a fellow officer to restrain a prisoner, who tried to escape from lawful custody.

During the struggle, the offender lunged at the applicant, bit his thumb, grinding his teeth into it, and only let go after the other officer choked him around the neck. The constable's injury was treated at hospital and he was admitted for four days. Approximately one month later the wound had become infected, and the applicant was re-admitted for surgical treatment. The applicant was unable to work for six weeks.

The offender was charged with assaulting a police officer.

The Board found the applicant compensable under Section 5(b) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$1000.00, for a total award of \$1000.00.

922-011588

The applicant, a 64-year-old janitor-carpenter, was injured as the result of an assault in Kitchener.

The applicant and the male offender resided in the same apartment. On the evening of the assault, the offender came to the applicant's apartment. They had two beers and talked for 15 minutes. Suddenly, the offender struck the applicant, knocking him to the floor and kicking

him several times. The applicant said he did not provoke the offender in any way. His injuries were diagnosed as multiple bruises, abrasions and minor lacerations to his face and neck. He also sustained five fractured ribs, a partially collapsed lung, and subsequently developed surgical emphysema. He remained in hospital for 20 days. He experienced pain and discomfort in the rib area for several months but has made a complete recovery. He was off work for four months.

The offender was convicted of assault and sentenced to 21 months in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$59.29 for ambulance and drugs; 7(1)(b) pecuniary loss \$1337.98 for net loss of income; 7(1)(d) pain and suffering \$2500.00; 7(1)(f) other pecuniary loss \$25.00 for hospital records, for a total award of \$3922.27.

922-010953

Upon the advice of his counsel, the applicant advised the Board that he was unable to recall events which had transpired over a period beginning about three weeks prior to the assault and his powers of recall were extremely impaired at the date of the hearing. The Board continued with the hearing upon conditions to which the applicant and his counsel agreed to be bound: that he declined an offer to adjourn; his loss of memory was unrelated to the assault, and that the Board would rely on limited relevant evidence of the applicant, police witnesses and documentation filed with it.

The applicant was 37-years-of-age, residing in Cambridge and on social assistance due to a cardiac disability. He stated that he knew the offender as a friend over a limited period of time. The offender had a reputation for violence of which the applicant was aware. The offender, his common-law wife, and others were drinking in a tavern and the offender left and returned to the applicant's apartment. At about 1:30 a.m., the applicant and the offender's wife returned to the apartment and discovered the offender apparently asleep on the couch in the living-room. The applicant and the offender's wife retired to the applicant's bedroom and undressed for bed. The applicant partially disrobed, went into the living room where he was attacked by the offender wielding a kitchen knife.

The applicant sustained 17 stab wounds to his left side, one of which severed the left femoral

artery (thigh – iliac). The blood loss required 28 units of packed cells and 15 units of plasma. He was in hospital for 25 days having developed severe respiratory distress syndrome and jaundice. In January, the applicant underwent a left iliofemoral bypass graft to improve the flow of blood to his left leg. A medical report indicated that he would have permanent numbness in his left thigh although he is likely to get over his limp.

The offender was charged with attempted murder which was reduced to wounding and sentenced to three years in prison. The Board will investigate the possibility of subrogation under Section 26 (2) of the Act.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$4500.00 (reduced); solicitor fee \$275.00 and disbursements \$604.74, for a total award of \$5379.74.

200-9965

Publication prohibited and in camera.

Same occurrence as File No. 200-9966. The applicant is a 29-year-old mobile refrigeration mechanic. The applicant, his wife and children were residing in Nepean, Ontario. At about 4:00 a.m., the applicant was awakened with the realization that he was being attacked by an assailant wielding a knife. Notwithstanding the force of the attack coupled with the pain of his wounds, the applicant responded by attempting to struggle with his assailant whom he recognized as a long-time friend. The applicant's wife, awakened by her husband's shouts, fled the bedroom but was pursued by the assailant who attacked her on the stairway with a knife and was only deflected from further attack when the applicant herein struck him repeatedly with a lamp. The applicant's wife ran from the house and got help.

The assailant was well known to the applicant and his wife, as they had been friends for approximately four years and he had lived with the applicant and his wife in their home for a period of ten months prior to this incident and had suddenly disappeared without explanation. Police investigation unearthed no motive for this attack.

The applicant sustained a deep puncture wound on the right side of the neck and three stab wounds in the right shoulder, two deep lacerations to the right arm, four in the forearm and two in his right hand. He also experienced six stab wounds in the thigh area and one large

stab wound in the leg. On the left thigh was a stab wound close to the groin going medially, away from the major vessels and nerves. The applicant was in hospital for four days and was discharged subject to overview by his doctor. There should be no permanent disability. A psychological assessment indicates that the trauma arising from the attack continued for a considerable period of time and was considerably aggravated by the feeling of betrayal as the attack had been carried out by someone considered by the applicant and his wife as a close friend. The applicant was unable to function in his normal tasks at his former job and to that and his employer was compelled to discontinue that particular segment of his operations leaving him without work for a period of time.

The offender was convicted of attempted murder and wounding and sentenced to life imprisonment. He plans to appeal.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss \$1288.00 which was the net loss of wages for two month; 7(1)(d) pain and suffering \$5500.00 of which \$1000.00 has already been paid in interim awards; 7(1)(f) other pecuniary loss \$1156.83 which included \$506.33 for new locks and \$650.00 for maintenance while they were disabled; solicitor fee \$350.00 and disbursements \$367.25, for a total award of \$8662.08.

200-9966

Same occurrence as File No. 200-9965. Publication prohibited. The applicant, a 24 year old housewife residing in Nepean, was the victim of a stabbing. The offender, a close friend of the applicant and her husband had been a boarder in their home for approximately 10 months and then suddenly disappeared, leaving his belongings behind. One month later, at approximately 4:00 a.m., he gained access to the applicant's home by way of a garage door connected to the house, which had been left unlocked by a house guest. The offender then made his way to the master bedroom where he began to stab the applicant's husband. The applicant ran down the stairs to the front door but was stopped by the offender who attacked her with a knife, until he was struck with a lamp by the applicant's husband.

The applicant was treated for multiple puncture wounds and lacerations. Her most serious physical injury was an almost complete amputation of the left index finger. A specialist was

brought in to perform the fracture reduction and layered repair of the extensor tendons. The entire hand and forearm were then stabilized in plaster and reinforced by padded dressing. The applicant was discharged the following day and started on a physiotherapy programme. Over the next seven months the finger injury failed to respond adequately to treatment and the applicant underwent surgical procedure to correct the tendon deficit. With more physiotherapy the applicant showed steady gradual improvement, but is left with a ten degree lack of extension and flexion as well as some discomfort in that area. She had adjusted well to the finger movement limitations by substituting her middle finger to perform powerful pinch motions. As a result of this condition, there exists the real possibility of degenerative arthritis in the future and if so, the need of a surgical implant of a plastic joint. The applicant was apprised of Section 25 of the Act in this regard.

After four months of counselling sessions, the applicant has steadily progressed to an acceptable level of emotional stability, whereby she was capable of accepting what happened to her.

The offender was charged with attempted murder and convicted of assault causing bodily harm and sentenced to life imprisonment. He is appealing the decision.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$3500.00 and solicitor fee \$300.00, for a total award of \$3800.00.

922-011191

The applicant was 34-years-of-age and was employed as a welder. The applicant and a friend were at a restaurant in Paris, Ontario. When their food arrived, there was a soft drink included and charged to their bill that they had not ordered. The applicant returned the soft drink and a heated argument ensued with the restaurant owner's son. The owner suddenly grabbed a butcher knife and stabbed the applicant. Police were notified and the applicant was taken to hospital where he was treated for a puncture wound to the right upper arm, penetrating muscles below the shoulder. The applicant's wounds were sutured and he was released followed by six weeks of physiotherapy. The applicant was unable to work for 33 days.

The alleged offender was charged with assault causing bodily harm and acquitted at trial.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim of \$280.00 (loss of income); 7(1)(d) pain and suffering \$1500.00; 7(1)(f) other pecuniary loss \$56.28 (travel to hearing); solicitor fee \$350.00 and disbursements \$119.13, for a total award of \$2305.41.

922-011233

The applicant was 21-years-of-age, a doorman and floor manager at a tavern. On that date, he was escorting an intoxicated patron from the tavern in Burlington, when the patron punched him in the face, knocked him to the ground and stomped on his right knee. At the time of the assault, the applicant was recovering from a prior injury to his knee and the second assault seriously aggravated his condition.

The applicant was treated for damage to the right knee joint which required a cast to control the instability about the knee. The applicant developed a dermatitis under the cast and had to be hospitalized and have the cast removed. Despite extensive treatment, the applicant has continued to suffer pain and some functional disability. Extensive physiotherapy is projected but this treatment has been delayed due to the applicant's back problem. The applicant's loss of income was covered by the Workers' Compensation Board.

The offender was convicted of assault causing bodily harm.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$5000.00; 7(1)(f) other pecuniary loss \$23.52: solicitor fee \$275.00 and disbursements \$322.18, for a total award of \$5620.70.

922-011518

The application was made on behalf of the victim by her father. The victim was aged 12 and was babysitting for a neighbour when the offender entered the home, physically assaulted the victim and then sexually assaulted her several times. He then left the premises. The police were notified and the offender was apprehended.

The victim was taken to the hospital for treatment. Evidence before the Board indicated that the victim suffered from severe facial cuts and bruises, bleeding from her left ear and emotional shock. She made a good recovery from her injuries.

The offender was charged with rape and imprisoned for life.

The Board found the victim compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$235.20 (travel for treatment); 7(1)(b) pecuniary loss – victim \$180.39 (mother's loss of income); 7(1)(f) other pecuniary loss \$84.00 (travel expenses to hearing) and to be held in trust for the minor victim the sum of \$4000.00, for a total award of \$4499.59.

922-010252

The applicant was 18-years-of-age, a student and living in Windsor, Ontario. On that date, in the early evening, the applicant was walking along a local street when she was accosted by the offender, threatened with a handgun, bound and gagged and left tied up in a nearby wooded area. The offender left only to return a short time later with a car in which he placed the applicant. He took her to another location and proceeded to sexually assault her over a period of two hours. He released the applicant shortly after midnight.

The applicant notified the police and was taken to the hospital. Medical evidence indicates that while the applicant suffered no physical injury, she suffered severe emotional shock. She made a good recovery; however, she is still somewhat apprehensive. The Board noted that this application was filed after the limitation period and that an extension was granted.

The offender was convicted of rape and kidnapping.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$3000.00, for a total award of \$3000.00.

922-010863

The applicant, a 21-year-old office worker, was abducted by a man with a knife as she entered her apartment building in Burlington. He drove the applicant to a secluded area and forced her to perform fellatio. The offender attempted to rape her and then bugged her. He threatened to harm her and her family if she told anyone about the sexual assault.

The applicant was later examined at hospital where she was observed to have a number of scratches and bruises. She also developed a case of genital herpes which has since subsided but which caused discomfort and some problems in her recent marriage. The applicant was unable to work for three weeks, and her husband stayed home from work for a week to give her reassurance. The scars from this

incident are more emotional than physical. The victim has suffered from depression, feelings of worthlessness, guilt and inability to sleep. She is too fearful to go out alone at night and regards strange males with apprehension. The applicant has not received psychiatric treatment but has attended marriage counselling.

The offender was found guilty of gross indecency, kidnapping, and buggery. He was declared a dangerous offender and sentenced to an indefinite jail term.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$10,000.00; solicitor's fee \$300.00; disbursements \$59.08 and loss of income and travel expenses for the applicant's husband \$373.52, for a total award of \$10,732.60.

922-011702

Publication prohibited and in camera. The applicant is the father of the 13 year-old-victim, his son. The victim's parents believed him to be on his way to an Army Cadet Camp. It was not until 12 days later, after receiving a telephone call, that they were made aware of the fact that their son had not arrived at his destination, but had instead been abducted and brought to the home of the offender. The victim was finally located nineteen days later in Windsor following a tip to police.

It was discovered that over a one-month period, the victim had been sexually abused by the offender on a regular and frequent basis. According to police, the offender had cleverly coerced the victim into believing that his parents would reject him and harm him, should they ever see him again. In this way, the offender was able to secure the victim's trust and loyalty.

On being found, the victim was noted as have a severe contusion around his right eye, resulting in an infection which was treated with antibiotics. More severe was the emotional trauma manifested by feelings of guilt, anxiety and anger. The victim's behaviour was such that the parents were unable to cope and felt a total loss of control. Psychological and psychiatric therapy was started and was stepped up when the victim's behaviour deteriorated to the point of physical violence and criminal activities. He has now had to be put into a security facility which provides the care and discipline needed for his problems. The victim has had emotional problems since age 10. The abduction and the ensuing month of sexual abuse brought these problems to the surface where the victim was

unable to maintain control due to his immaturity. There is hope for improvement within special training schools.

The offender was convicted of abduction and indecent assault and was sentenced to three years in prison.

The Board found the victim compensable under Section 5(a) of the Act and noted that the abduction exacerbated the victim's emotional problems and awarded compensation under Section 7(1)(d) pain and suffering \$5000.00 payable to the Accountant of the Supreme Court of Ontario until the applicant reaches age 18; solicitor fee \$500.00 and disbursements \$175.00, for a total award of \$5675.00.

200-8230

The applicant is the mother of her minor daughter, the victim. Shortly before midnight the victim, then 13 years of age, was babysitting near her home in Elliot Lake. She was asleep in a chair in the living room when she was attacked by a drunken man with a hammer. The man was the uncle of the child she was babysitting, and there was never any explanation for the attack.

As a result of being struck a number of times, the victim sustained two skull fractures with deep lacerations and two fractured fingers, the left middle finger and the right ring finger. One skull fracture was depressed and had to be surgically elevated. The deep lacerations had to be cleaned and sutured. Both fingers required surgical repair, one with a splint. The victim was hospitalized for five days, but was unable to return to school for two months. She had been left with minor scarring about the head. The finger on the left hand is acutely sensitive at the tip and the finger on the right hand is stiff and had limited movement. There was a claim for loss of intellectual capacity including loss of memory and lack of concentration. The victim's mother also testified to her lack of responsiveness. She failed two of her next three years in school, however, school records showed reasons not necessarily related to the incident. The Board found that based on the medical evidence there was no doubt some emotional and physical effects of this attack which could affect the attitude and performance of a student, but there was no satisfactory evidence to establish a diminished intellectual capacity.

The offender was charged with wounding and weapons dangerous and given a suspended sentence.

The Board found the victim compensable under Section 5(a) of the Act and awarded com-

pensation under Sections 7(1)(a) expenses \$67.20 for travel for treatment; 7(1)(d) pain and suffering \$7000.00 of which \$5000.00 was paid by the offender's mother directly to the victim's mother, thus leaving \$2000.00 payable to the Accountant of the Supreme Court of Ontario until the victim reaches age 18; 7(1)(f) other pecuniary loss \$292.40 for travel and loss of income to attend the hearing, for a total amount paid of \$2764.60.

922-011616

Publication prohibited and in camera. The applicant was a 49-year-old woman employed as a part-time bookkeeper.

In Mississauga, while driving home one winter the applicant's car went into a ditch and the offender came out of a house nearby and offered to let her use his telephone to call a tow truck. Once she was in the house, she was brutally assaulted by the offender and subjected to many sexual acts. At one time, she lost consciousness and when she awoke, her wrists were tied. The offender threatened to use a gun or knife on her, and kept her prisoner for over three hours.

She was treated for bruising and ecchymosis (skin discolour) on both sides of her face and contusions to her upper and lower lips and a subconjunctival (eye) haematoma. She was found to have tenderness in the orbital rims of the left maxilla and a blow-out fracture of the left orbit (eye). There were many contusions of the neck and shoulder area, the inside of both upper arms, left breast and right upper chest. There were abrasions over the back of the left and right shoulders and contusions over the back of both forearms and hands and in the inner aspect of the left thigh. A laceration of her left eyebrow was sutured. The applicant had to have surgical repair of the blow-out fracture of the left orbit. Because of her appearance, the applicant was forced to remain in her home for several weeks until the bruising and swelling disappeared. The applicant is left with permanent double vision on upward gaze, which is corrected with eyeglasses which must now be worn all the time, but she finds her visual problems interfere with some things, such as her favourite sport curling. The applicant was unable to work at her part-time job for two months. Ten sessions of counselling helped her in dealing with the trauma of the assault. She still has trouble dealing with the post-traumatic symptoms.

The offender was found as 'dangerous' and received an 'indeterminate life sentence' plus an additional three years for gross indecency.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$270.00 for drugs, dentist, new eyeglasses and costs over and above OHIP; 7(1)(b) pecuniary loss \$500.00 for two months away from her part-time job; 7(1)(d) pain and suffering \$10,000.00, for a total award of \$10,770.00.

922-011108

The applicant, aged 24, unemployed, had been drinking with a friend in Peterborough. When the bartender who was a friend of his joined the applicant's table, four men at a nearby table proceeded to make nasty remarks involving the applicant's and the bartender's sexual proclivities.

This baiting was ignored and soon the applicant got up to leave. Once outside, he became aware that he was being pursued by two of the four men who had been insulting him. They caught up to him and one of them assaulted him. They were frightened off by the approaching headlights of a car driven by another of the four men. He assisted the applicant into his car to take him to hospital. The applicant suffered bruises and contusions to his head, chest and sternum (chest-bone) and a broken finger. He had surgery on the broken finger. Wires were inserted to fuse the bone and were not removed until February 10, 1983. Therapy was required for one month and healing progressed well.

The offender was convicted of assault causing bodily harm and sentenced to 30 days imprisonment.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$1,800.00; 7(1)(f) other pecuniary loss \$17.30 (travel expenses); solicitor's fee \$300.00 and disbursements \$127.86, for a total award of \$2,245.16.

922-011292

The applicant, a bus operator aged 35, was assaulted by the offender on a bus which he, the applicant, was driving.

The offender entered the bus and took a seat without paying the required fare. He was twice requested to do so, but became belligerent and was asked to leave the bus. At this time, he began punching the applicant. Other passengers went to the applicant's assistance, and he was thus able to hold the offender until police arrived. The applicant was treated for his

injuries at the hospital and by his family physician. He was supplied with a cervical collar for a blunt trauma of the right side of his neck. He also sustained muscle bruising in the right arm and hand, for which he took physiotherapy treatments. He was off work for about one month.

The offender was charged with assault causing bodily harm and sentenced to 30 days in jail plus one year probation.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss \$144.80, being the amount of wages not covered by Worker's Compensation; 7(1)(d) pain and suffering \$1,500.00 and disbursements payable to the Toronto Transit Commission Legal Department of \$180.00, for a total award of \$1,824.00.

922-012103

The applicant was 31-years-of-age, unemployed and living with the offender in Toronto.

Without provocation or warning, the offender assaulted the applicant in their bedroom, striking her with his fists and scoring her lower back, thighs and buttocks with his keys. The applicant was able to escape and call police. She was treated in hospital for lacerations to her face, legs and back. After psychiatric assessment for acute crisis, she was released. Medical evidence indicates that although the upper scars might fade, the very visible scars on the thighs could be permanent.

The offender was convicted of assault causing bodily harm and sentenced to 15 days in jail.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$2,000.00, for a total award of \$2,000.00.

922-010926

At approximately 1:30 a.m., the applicant, a 25-year-old superintendent of an apartment building in Toronto, was assaulted by unknown persons while putting out the garbage. He lost consciousness and came to himself at about 8:00 a.m.

The applicant was taken to hospital and was treated for lacerations to the scalp and nose and bruising to the shoulders and back, as well as swelling to the face and hands. The applicant was left with a small permanent scar on his face and was frightened and felt the need to vacate his apartment.

The police strongly suspected that the alleged offender was a tenant in the same building; however, no one was apprehended.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$20.00 (ambulance) and 7(1)(d) pain and suffering \$1,400.00, for a total award of \$1,420.00.

922-010419

The applicant was 62 years of age and a sign painter.

He was assaulted in Toronto in an attempted robbery. He was punched in the face and knocked down and then kicked in the ribs. His assailant has never been apprehended by the police.

The applicant was treated by his doctor for headaches and soreness in his chest and neck. He was later diagnosed to have three fractured ribs. As a result, the applicant was unable to perform his work for two months. He still complains of headaches and occasional pain in his ribs.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(b) pecuniary loss – victim \$1,000.00; 7(1)(d) pain and suffering \$1,200.00, for a total award of \$2,200.00.

922-011524

The applicant, a 29-year-old security guard, woke up in a stranger's car at 5:00 a.m. somewhere near a Scarborough hotel in Toronto. When he left the car, he realized that he had been robbed of his wallet and jewellery and that he had been injured.

The applicant told the Board that he remembers nothing of what happened after he left the hotel until he woke up in the car. He admitted that he was intoxicated. Little could be done by the police, as the applicant was unable to identify either the offender or his assailants.

That afternoon, the applicant was treated at hospital for abrasions over his forehead and his left eye, on his chest and on his back. The medical report also indicates he may have suffered a slight concussion, although there was no evidence of any neurological injury. In addition, he suffered cervical and lumbar muscular sprain which required physiotherapy for about three months. He was off work for 13 weeks. The offenders have not been apprehended.

The Board found the applicant compensable under Section 5(a) of the Act, but gave a reduced award by virtue of Section 17(1) where the victim's behaviour is considered if it directly or indirectly contributed to his injury. The Board awarded compensation under Sections 7(1)(a) reduced expenses \$25.00; 7(1)(b) pecuniary loss \$200.00 (reduced); 7(1)(d) (reduced) pain and suffering \$300.00, for total award of \$525.00.

922-010934

The applicant was 63-years-of-age and was employed as a homemaker.

At approximately 6:30 p.m., the applicant was proceeding home, along a street in Sudbury, when an unknown person grabbed her purse and in attempting to keep her purse, the applicant fell and dislocated her shoulder. The unknown offender was successful in obtaining the purse and fleeing. The police were notified and the applicant was taken to the hospital where she remained for nine days.

The applicant had suffered a fracture and dislocation of her right shoulder. An open reduction was carried out and internal fixation was installed. The fixation was partially removed six months later. The applicant received physiotherapy and was unable to work for five months. The applicant made a good recovery, but is left with a minimal disability.

The alleged offender was never apprehended.

The Board found the victim compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$247.00 (drugs, eye glasses, and travel for treatment); 7(1)(b) pecuniary loss – victim \$947.65; 7(1)(d) pain and suffering \$2500.00; 7(1)(f) other pecuniary loss \$40.40 (hospital records) and solicitor's fee \$200.00, for a total award of \$3,935.05.

922-012169

This application is brought by the applicant on behalf of her retarded son.

The victim, age 19, was riding his bicycle on a street in Toronto, and was assaulted by an unknown male person. He was knocked down, kicked in the head, thrown over an embankment, and as a consequence, sustained several body injuries, the most serious being a severe fracture of the left mandible (jaw). He also sustained swelling to his face and a cut to his ear.

The victim was confined to the hospital for three weeks. His jaws were wired and he was

only able to take liquids. No offender was apprehended for this occurrence.

The Board found the applicant compensable under Section 5(a) of the Act, and awarded compensation under Sections 7(1)(a) expenses of \$182.50; 7(1)(d) pain and suffering of \$4,000.00 payable to the applicant for the benefit of the victim; and 7(1)(f) other pecuniary loss of \$21.00 for a total award of \$4,203.50.

922-010282

The applicant, aged 27, a restaurant hostess, went to a hotel in Midland with her common-law husband. They had an argument and returned home. The argument continued and ended with the offender striking her several times. The applicant stated that they both had been drinking all evening. The applicant said they had lived together for nine years and he had assaulted her seven times prior to this occurrence, but she never reported the assaults to police. The offender also had a criminal record and during the nine years was never steadily employed.

The applicant did not report this assault to police, but her family did. She told a police constable that it must have been her husband who beat her, but was vague on details. The applicant sustained multiple bruising of the face, arms and hands, a laceration of the forehead and two fractured ribs. She subsequently developed tension pneumothorax which required the insertion of a tube in the left chest area. Hospital records state the applicant had been drinking, refused suturing and would not cooperate with hospital staff during the eight days she was hospitalized. The applicant felt that she was not able to work for four months, and that she was unable to find work for another two months after that. She did not receive unemployment insurance as she chose not to apply for it.

The offender was convicted of assault causing bodily harm and sentenced to eight months in jail which was reduced to four months on appeal.

The Board considered the injuries and the fact that the applicant stayed with the offender after being assaulted on several occasions as well as her awareness of the offender's criminal activities during the nine years they were together. The Board, therefore, invoked Section 17(1) in that the behaviour of the victim may have directly or indirectly contributed to his injury or death, and denied the application.

922-010920

The applicant, a 30-year-old postal clerk, applied for compensation as the result of an alleged mugging that took place in Toronto. As a result of the mugging, the applicant suffered a severe eye injury. However, the applicant did not report the incident to the police until two and one-half months later.

The Board heard testimony from two witnesses who indicated that the applicant was asked on two separate occasions whether he had reported the incident to the police. They advised him to do so. The applicant argued his failure to report the incident was as a result of his severe eye injury and in addition, because of a warning he had received from the mugger against reporting to the police.

The Board noted that the applicant had returned to work one month after the offence took place, and at that time the major trauma had been resolved. The report to police was not made for a further six weeks. The Board invoked Section 17(2) of the Act and denied the application on the grounds that the applicant had failed to report the offence promptly to a law enforcement agency. However, the Board awarded under Section 22 solicitor's fee \$200.00 and disbursements \$85.00, plus a supplementary order for a medical report \$25.00, for a total award of \$315.00.

922-010788

The applicant, age 28, and employed in the Accounting Department at a college, was present when her husband was assaulted. That occurrence is described in file 922-010789. The application in this case is for the emotional stress she suffered as a result of the assault on her husband.

Evidence before the Board indicated the husband sustained a severe head injury resulting in an acute personality change. Her husband exhibited extremely aggressive anti-social behaviour with paranoia and depression. Throughout this period, the applicant had the problems of continuing with her job, caring for her children and operating the household.

The applicant has suffered severe tension headaches and was prescribed tranquilizers to resolve the headaches but this was not successful. The applicant presently takes medication on a daily basis.

The Board found the applicant's headaches were the problems associated with her husband's convalescence and that she did not qualify under Section 5 of the Act. The

application was denied. The two offenders were convicted of assault upon the applicant's husband and were sentenced to two weeks plus \$1,000.00 and four months in jail respectively.

922-012034

Same occurrence as File No. 922-012035. The applicant was 26-years-old, a recipient of Mother's Allowance and lived in Toronto. She was out on bail at the time. One of the offenders, and a co-accused undertook to supply a cheque-writing machine for the applicant to turn over to the police, (which would result in the dismissal of a charge against her), but supplied the wrong machine. The applicant then visited the applicant in file 922-012035 (her friend) who returned with her to the apartment. She was angry that the evidence was not produced and told her friend who in turn became angry.

There were conflicting stories and the Board considered the evidence adduced and the testimony of one of the investigating police officers. The Board considered the involvement of the applicant in the events leading up to the attack, namely bringing her friend on the scene for the purpose of persuading the offender to accede to the applicant's request for assistance, and her removal from the scene of the assault on the offender of a potential witness. As well the Board considered her highly selective testimony at the hearing.

The two offenders were charged with attempted murder but were convicted of the lesser included offence of wounding. The Board found that the applicant may have directly or indirectly contributed to her injury and cited Section 17(1) of the Act and denied the claim. The Board however, awarded costs under Section 22 of the Act to the solicitor fee \$1386.80.

922-012035

The applicant was 33-years-of-age and an unemployed roofer. This application covers the same occurrence as File No. 922-012034. The girlfriend of the applicant was out on bail at the time and two of her male associates had undertaken to deliver evidence to her which would result in the dismissal of the charge against her. She became angry when the evidence was not produced and told the applicant who, in turn, became angry. Since there were conflicting stories, the Board considered the evidence adduced and the testimony of one of the investigating police officers.

The Board considered the involvement of the applicant in the events leading up to the attack,

including his role as "persuader" at his girl friend's behest, assembling various weapons, one of which he used to assault the first offender and his confinement of the first offender.

The Board noted Section 17(1) of the Act which requires it to have regard to all relevant circumstances which may have contributed to the injury. The Board found that the applicant was in a very considerable sense the architect of his own misfortune and accordingly, denied this application for compensation. The two offenders were charged with attempted murder but were convicted of the lesser included offence of wounding. The applicant was beaten about the head with a baseball bat. Pursuant to Section 22 of the Act, the Board awarded to the solicitor for fee \$300.00 and disbursements \$152.40, for a total award of \$452.40.

922-012658

The applicant was 33 years of age, unemployed, and on his way home from a hotel in Toronto where he had had a few beers. The applicant claims he was assaulted from behind, and only remembers waking in the hospital the next morning. The hospital police, and police responded, but the applicant refused to answer questions or co-operate. Witnesses at the hospital described the applicant as intoxicated. Police recorded the incident but no further action was taken. The applicant suffered lacerations to the left eyebrow and back, abrasions to back and scalp and bruising to the left ankle. The applicant left the hospital before receiving treatment. He returned the next day and had his wounds sutured. He sustained no fractures. The applicant did not pursue the matter further with police.

The Board found the applicant had refused to cooperate with police and medical authorities and denied the application pursuant to Section 17(2) of the Act.

922-011487

At approximately 11:00 p.m. the applicant, aged 24 and unemployed, was stabbed in the abdomen outside a convenience store in Ottawa.

The applicant had been in a nearby restaurant and lounge for about two hours prior to the occurrence. He had consumed about seven beers. He was on his way home and stopped at the store. He inadvertently stepped on a jean jacket of one of a group of youths outside the store and she took offence and swore at him. He responded in kind. He was then confronted

by three males each of whom had a knife. The applicant also pulled a knife. Two of the youths then fled. The applicant thought the third youth had put his knife away but wanted to teach him a lesson. He grabbed the youth's hair and began to hit him. The youth retaliated by stabbing the applicant.

As a result, the applicant received a 1.5 centimetre stab wound of the left abdomen. He underwent a laparotomy to determine if there were any internal injuries. A small laceration of the liver was noted, but there was no active bleeding and no other injuries. The applicant was hospitalized for eight days but has recovered with no disability. The applicant has been left with a scar from the surgical incision, which causes occasional discomfort. The applicant incurred hospital expenses of \$1800.00, but his solicitor is trying to arrange retroactive OHIP coverage.

The offender was found guilty of assault causing bodily harm and was sentenced to one year in jail.

The Board noted the quantity of alcohol consumed, the victim's engaging in a verbal confrontation, the fact that the victim was carrying a knife and also the fact that the victim voluntarily undertook to "teach a lesson" to the armed offender. The Board felt he willingly assumed the risk of violence. The Board therefore, invoked Section 17(1) in that the behaviour of the victim directly contributed to his injury and denied the application. Under Section 22 of the Act, the Board awarded \$90.00 to the solicitor in costs.

922-011044

With the consent of the applicant, the Board heard this application on the documentary evidence submitted and representation by counsel.

The applicant, a 35-year-old condominium manager, was assaulted in Thornhill. The applicant's wife had been pushed and shoved with a sharp shopping cart by the alleged offender. When the applicant protested, he was knocked to the ground and bitten on the right eyebrow.

The applicant had a large defect of the upper eyebrow and eyelid. He required an initial skin graft to close the wound and five months later another graft to replace the eyebrow with hair from the scalp. He was then left with significant scarring and has suffered considerable emotional trauma.

The Board awaited the outcome of the offender's appeal of a conviction of a charge laid

by the applicant of assault causing bodily harm. The original sentence was three months in jail. The appeal judge found that the applicant assaulted the alleged offender when the alleged offender refused to apologize for verbally assaulting the applicant's wife. It was in response to this assault that the applicant was himself assaulted and received his injuries.

The Board accepted the findings of the appeal court "...that neither side conducted themselves in a reasonable and proper or intelligent manner." The Board also accepted the finding of the court that the applicant assaulted the alleged offender prior to being assaulted himself, and took all these matters into account in arriving at its decision. The Board advised the applicant's solicitor that if further reconstructive surgery was required the costs would be covered under section 25 of the Act.

The Board found the applicant compensable under Section 5(a) of the Act and compensation was awarded under Sections 7(1)(d) pain and suffering \$1500.00; 7(1)(f) other pecuniary loss \$130.00 and solicitor's fee \$250.00, for a total award of \$1880.00.

922-011006

With the consent of the applicant, the Board heard this application on the Documentary evidence provided. The applicant, unemployed, lived in Milton and was 24 years of age. On that afternoon, the offender picked up a woman at her home and drove her to his house at approximately 2:00 p.m. Her intention was to have a drink. At approximately 4:00 p.m. after having had several drinks, the applicant arrived looking for her and she hid in the bathroom where the applicant found her. Following this, the applicant and the offender had several more drinks and a scuffle developed over the price of the ticket to the dance which the woman had given to the offender, the uncle of the applicant. After the scuffle had gone on for some time, the offender announced that he was going to get a knife and get rid of the applicant.

Despite the warning, the applicant did not leave and the offender returned with a knife, lurched at the applicant who attempted to grab the knife, and subsequently the offender stabbed the applicant in the lower left abdomen. The applicant also received a cut in his hand as a result of trying to grab the knife. The applicant was operated on for repair to his intestines and stomach wall and discharged eleven days later. There is no permanent physical disability. The applicant has lengthy record of violent offences. The documentary evidence before the Board

was substantially corroborated by the investigating police officer.

The offender was originally charged with attempting murder but was convicted of wounding and was sentenced to eight months in jail and one year probation.

The Board found the victim compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$1000.00 which was a reduced amount based on Section 17(1) of the Act because the victim had contributed to his injury by consuming alcohol and by failing to leave the premises after the first argument.

200-9752

The applicant's father (the victim) aged 64 and a chronic alcoholic was assaulted by two offenders who lived in the same rooming-house in Toronto as the victim.

The first assault resulted from an altercation between the first offender and the victim, when the victim kicked in the offender's door for no apparent reason and then left. The offender followed the victim to his room and when no explanation was given, he struck the victim several times causing the victim's nose to bleed. The victim did not seek medical attention for this assault.

The next day the victim repeatedly entered the room of the second offender, without permission, and was told to stay out. An argument ensued and the second offender struck the victim, knocking him to the floor, and kicked him several times in the head, then left. The following day police were called, and the victim, who was unconscious, was taken to hospital.

The victim underwent surgery for evacuation of an acute right subdural haematoma (blood clot). Two days later, he underwent two additional surgical procedures to treat temporal and intracerebral (brain) clots, which had not been recognized initially. Due to the victim's damaged neurological state, he was treated for intubation trauma (insertion of tubes) to the larynx; urinary tract infections and recurrent aspiration pneumonia. He has remained in a chronic care hospital. The neurological damage suffered will necessitate total medical and nursing care for the rest of his life. Medical expenses are currently being covered by medical and pension benefits.

The Board invoked Section 17 of the Act in that the behaviour of the victim may have directly or indirectly contributed to his injury, and gave a reduced award for pain and suffering. The

Board found the victim compensable under Section 5(a) of the Act and awarded compensation under Section 7(1)(d) pain and suffering \$5000.00 (reduced) payable to the Public Trustee to be used for the best interests of the victim; solicitor's fee \$250.00 and disbursements \$165.00, for a total award of \$5415.00.

200-9215

The applicant was 18 years of age and a part-time apprentice carpenter.

The applicant and three friends had visited a tavern in Scarborough. When they left, another group of four males tried to take some beer from a van belonging to one of the applicant's friends. An argument started, then a fight broke out between two of the males. The applicant and his friends got in the van and tried to leave the scene. The offender opened the door of the van and grabbed the ignition keys. He started to punch the driver and another passenger. When the applicant tried to stop him from attacking his friends, the offender turned and struck the applicant with his fist. The ignition keys were protruding from his fist, and punctured the applicant's temple. While this assault was taking place, three of the offender's friends were smashing the van windows. They then left the scene.

The applicant was taken to the hospital by his friends but did not remain there as the offender and his friends followed them and caused further trouble. The applicant sustained a small hole in his scalp which caused an acute epidural, and a craniectomy was performed. The applicant was unable to eat, speak or move for some time. He was in a rehabilitation centre for several months. As a result of the assault, the applicant was left with partial use of his left arm and left leg only. He also suffers memory lapses. These conditions are considered permanent, and he will be handicapped in seeking future employment. He now resides in an apartment with other brain-injured adults.

The Board found the applicant compensable under Section 5(a) of the Act and awarded maximum lump sum compensation under Section 7(1)(d) pain and suffering \$15,000.00 and Section 22, costs to the solicitor for fee \$300.00 and to the doctor for his report \$226.00, for a total award of \$15,526.00.

922-010191

The applicant was 21 years of age and employed as a labourer. As he was walking along a street in Hamilton in the early hours of the morning looking for a taxi, he was

approached by an unknown man. He was asked for a light, and then for money.

The unknown man produced a knife and as the applicant raised his right hand to protect himself, received a stab wound in his hand. The offender then fled. The applicant was taken to hospital where his hand was sutured and he was released. He developed a haematoma which was later removed. Since then, he has undergone numerous tests and three surgical procedures. He is left with a long noticeable scar on his right hand and still experiences occasional pain and weakness. He is right handed. He occasionally suffers pain and discomfort when working.

The alleged offender was never apprehended.

The Board found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(a) expenses \$14.00 (travel for treatment); 7(1)(d) pain and suffering \$4000.00 and to the solicitor for disbursements \$79.80, for a total award of \$4093.90.

922-011760

The applicant was 42 years of age and employed as a tool and die maker.

The applicant was driving his car in Windsor, when the offender side-swiped the applicant's car. The applicant stopped his car to inspect the damage which was minor, and the offender did the same. When the applicant asked for the offender's name and address, an argument erupted, and the applicant was assaulted. Two male passengers from the offender's car joined in the assault and the applicant was hit in the face with a beer bottle and kicked about the face and body. The offender and his party then left the scene.

Police were notified and the applicant was taken to hospital. The applicant was treated for multiple injuries to his head and body, a laceration to the upper right eyelid which required sutures and post-traumatic syndrome. Although he obtained chiropractic treatment, he still complains of recurring headaches. He was unable to work for 7 days.

The offender was convicted of assault causing bodily harm.

The Board found the applicant compensable under Section 5(a) of the Act. The Board granted an extension with regard to this application as it was filed after the limitation period. The Board awarded compensation under Sections 7(1)(a) expenses \$194.15 (net medical expenses, ambulance, amount over

OHIP); 7(1)(b) pecuniary loss-victim \$333.60 (loss of income); 7(1)(d) pain and suffering \$2000.00; 7(1)(f) other pecuniary loss \$25.00 (doctor's report, net loss of income to attend report), for a total award of \$2602.75.

922-011933

Publication prohibited and in camera. The applicant is a housewife who alleges that when she was between the ages of 15 and 17 in the years 1967 to 1969, she and one of her sisters (File No. 922-011357) were sexually assaulted by their father, the offender. The matter came to the attention of the Children's Aid Society in 1982 who referred it to the police who conducted the investigation and laid charges. The applicant did not suffer any physical injuries but was diagnosed as having severe general emotional and psychological damage. She received treatment and counselling which is ongoing. As a result of the rape, the applicant became pregnant and gave birth to a child who is cared for by her relatives under the supervision of the Children's Aid Society.

The offender was convicted of sexual assault.

The Board noted this application was granted an extension beyond the one year limitation period and found the applicant compensable under Section 5(a) of the Act and awarded compensation under Sections 7(1)(d) pain and suffering \$6500.00; 7(1)(f) other pecuniary loss \$18.90; solicitor's fee \$400.00 and disbursements \$305.00, for a total award of \$7223.90.

922-012194

The 23 year old applicant claimed that on an unknown date in October or November he was assaulted in an apartment building in Toronto.

The applicant was unable to supply any further details as to the date or time and police records do not disclose any occurrence other than an assault by the applicant on his wife in October, for which she laid no charges. The Board therefore denied the applicant under Section 5 of the Act.

**Former Members of the
Law Enforcement Compensation Board**
(April 1, 1968–August 31, 1971)

and its successor

The Criminal Injuries Compensation Board
(September 1, 1971)

Apr. 25, 1968 – May 11, 1972	Judge Colin Bennett	Chairman & Member
Apr. 25, 1968 – Mar. 22, 1972	Robert P. Milligan, Q.C.	Vice-Chairman & Member
Apr. 25, 1968 – Dec. 31, 1973	Fred B. Deacon	Member
Apr. 25, 1968 – Nov. 7, 1969	Gordon Mullen	Secretary
*Feb. 5, 1970 – Feb. 15, 1976	Judge A. Roy Willmott	Member
Aug. 20, 1970 – Sept. 9, 1971	Judge Ian M. Macdonnell	Member
Jan. 1, 1972 – Mar. 31, 1974	Arthur A. Wishart, Q.C.	Chairman & Member
Feb. 9, 1972 – May 31, 1976	Robert C. Rutherford, Q.C.	Vice-Chairman & Member
Apr. 19, 1972 – Nov. 1, 1974	Vincent K. McEwan, Q.C.	Vice-Chairman & Member
Jul. 1, 1973 – Apr. 1, 1978	Shaun MacGrath	Vice-Chairman, Acting Chairman & Member
Feb. 1, 1974 – Sept. 30, 1975	Eric H. Silk, Q.C.	Chairman & Member
Apr. 1, 1974 – Jan. 7, 1975	James W. Wakelin	Member
May 21, 1975 – Jun. 1, 1978	Stuart David Cork, Q.C.	Vice-Chairman & Member
Jan. 21, 1976 – Jan. 20, 1985	Allan Grossman	Chairman
*Feb. 16, 1976 – May 21, 1978	Edward W. Tyrrell, Q.C.	Member
Aug. 3, 1976 – Aug. 2, 1982	Douglas H. Lissaman, Q.C.	Member
Sept. 1, 1978 – Aug. 3, 1984	Nathan L. Sandler	Member
Apr. 2, 1980 – Jan. 29, 1983	D. Arthur Evans	Member

On September 1, 1971, The Law Enforcement Compensation Act was superceded by The Compensation for Victims of Crime Act, and the title of the Board was changed from the Law Enforcement Compensation Board to the Criminal Injuries Compensation Board.

* (deceased)

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-R21



Ontario
Criminal Injuries
Compensation Board
1985/86



THE
SEVENTEENTH REPORT
of the
ONTARIO
CRIMINAL INJURIES COMPENSATION BOARD
administering
THE COMPENSATION FOR VICTIMS OF CRIME ACT, 1971
for
the fiscal year
April 1, 1985 to March 31, 1986

THE BOARD

MARGARET SCRIVENER

Chairman

GERALD M. HARQUAIL

Vice-chairman

ANNE STANFIELD

AUDREY MERRETT

Vice-chairmen

Vera Brookes

Gloria J. Burt

Greville Clarke

Linda Clippingdale

Eli Freeman

John D. V. Hoyles

Celia Kavanagh

James D. Lang

Robert W. Mitchell, Q.C.

E. Lee Monaco

John F. Santos

Harvey Spiegel, Q.C.

Teresa Tait

Anne Tomljenovic

Uno Viegandt

Members

* * * * *

V. P. GIUFFRE

J. H. SHEARD

Registrar

Chief of Investigations

* * * * *

Copies of this report may be obtained from:

Criminal Injuries Compensation Board

17th floor, 439 University Avenue

Toronto, Ontario M5G 1Y8

Telephone: (416) 965-4755



Office of
The Chairman

Criminal Injuries
Compensation
Board

416/965-4755

439 University Ave.
17th Floor
Toronto, Ontario
M5G 1Y8

The Honourable Ian Scott,
Attorney General for Ontario,
Parliament Buildings,
Queen's Park,
Toronto, Ontario

Honourable Sir:

Since joining the Board May 1, 1985, and undertaking the review of operations necessary for a new chairman, three main areas requiring special attention have been identified.

These are: revision of the Board's enabling legislation, reduction of the backlog of cases, and certain administrative improvements. With the strong support and co-operation of the Ministry which has been so evident, I am confident these matters are capable of resolution.

Sir, I have the honour to submit the Seventeenth Report of the Criminal Injuries Compensation Board, which covers the period April 1, 1985 to March 31, 1986.

Sincerely,

Margaret Scrivener

Margaret Scrivener (Mrs.)
Chairman

Program Description

The Legislation

The legislation under which the Board functions is The Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967.

The Board is required by the Act to find the commission of a crime of violence (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies.

Section 6 of the statute prescribes a one-year limitation period for filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 232 requests for extension of the limitation period were approved compared to 175 in the previous year.

Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums:

In the case of lump sum payments, up to \$15,000 and in the case of periodic payments, up to \$500 per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is \$7,500.

These maximums were enacted in 1971. Having regard for the inflationary factor in the last 15 years, very serious consideration needs to be given to a substantial increase in these maximums.

Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to injury or death. The sum of \$68,729 was recovered during the fiscal year, compared to \$62,991 in the previous year.

Hearings

The Board, composed of a full-time Chairman, one full-time Vice-Chairman, two part-time Vice-Chairmen and thirteen part-time members, usually sits in panels of two.

Although a large number of Hearings were held in Toronto, during the fiscal year Hearings also took place in Thunder Bay, Sudbury, Fort Albany, Sault Ste. Marie, Windsor, London and Ottawa. This is done routinely to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

Documentary Evidence Hearings

Some applications are relatively minor and simple of adjudication. Therefore, with the consent of the applicants, they are dealt with on documentary evidence alone. A total of 81 were heard in this manner during the fiscal year.

This approach minimizes the need to inconvenience the applicant and/or solicitor and witnesses insofar as travelling to the location of Hearings, the attendant loss of work time and expenses involved.

Child Abuse

During this fiscal year the Board received 54 applications in respect of child abuse, heard 16 cases and awarded \$96,731.

Administration and Productivity

The administrative staff of the Board is composed of the Registrar, Chief of Investigations, three investigators and a secretarial, stenographic and clerical staff of eight.

In this fiscal year, the Board heard 1233 applications and 1220 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year.

The total value of awards increased from \$3,285,883 in 1984/85 to \$4,000,275 in 1985/86. Of this amount, \$617,499 was in the form of periodic payments.

The number of applications received increased from 1697 in 1984/85 to 1799 in this fiscal year. Since it is anticipated that the application

rate will continue to escalate, the Board's Toronto office was renovated to provide a second Hearing Room and improved Waiting Room and other facilities for public use.

Public Awareness

Large posters and explanatory pamphlets in five languages are supplied to hospital emergency wards and staff lounges, Court Houses and other public buildings, supermarkets, etc.

Police forces throughout the province have been supplied with hundreds of thousands of wallet-sized cards (at right) to be given to victims of crimes of violence advising them how to apply to the Board.

The daily Hearing agenda and a selection of typical Board Orders are provided to the news media, and others upon request.

Cost Sharing

Awards made under The Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts to the lesser of 50% of the awards (net of any recoveries), or ten cents per capita of the population of the Province. For the fiscal year 1984/85, this share amounts to \$894,690. The Federal Government does not share administrative costs.



Ontario

ONTARIO CRIMINAL INJURIES COMPENSATION BOARD

Injured innocent victims of violent crimes may be eligible for compensation from the above Board. Reporting to, and co-operating with, the Police, is an important consideration. If you feel you may qualify, contact the Board immediately at (416) 965-4755, or write to 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8.

(9/8/83)



Ontario

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS DE L'ONTARIO

La Commission susmentionnée peut accorder une indemnisation aux victimes innocentes d'actes criminels violents qui ont été blessées. Il est primordial de contacter la police et de collaborer avec elle. Si vous pensez avoir droit à une indemnisation, veuillez contacter immédiatement la Commission, en téléphonant au (416) 965-4755, ou en écrivant à l'adresse suivante: 439, avenue University, 17^e étage, Toronto, Ontario M5G 1Y8.

(9/8/83)

Applications By Area

Acton	1	Bolton	1	Carol Richard Lake	1
Ajax	2	Bowmanville	1	Carrying Place	1
Albion Falls	1	Bracebridge	2	Chapleau	1
Almonte	1	Bradford	1	Chatham	6
Amherstburg	1	Bramalea	7	Chelmsford	2
Ancaster	1	Brampton	30	Clenell Township	1
Arnprior	3	Brantford	24	Cobourg	5
Atikokan	1	Brantford Township	1	Cochrane	1
Attawapiskat	1	Brockville	2	Colchester	1
Ayr	1	Bruce Mines	1	Collingwood	2
Barrie	11	Burlington	7	Concord	1
Bath	4	Burrit Rapids	1	Cornwall	5
Beamsville	2	Caledon East	2	Dalhousie	1
Beaverton	2	Calstock	1	Deep River	2
Belle River	3	Cambridge	16	Douglas	2
Belleville	9	Campbellford	1	Dresden	1
Bexley Township	1	Campbellville	1	Dryden	2
Big Trout Lake	1	Canborough	1	Dundas	2
Binbrook	1	Capreol	1	Dunnville	4
Blenheim	1	Cardinal	2	Echo Bay	1
Blind River	1	Carleton Place	2	Elgin County	1

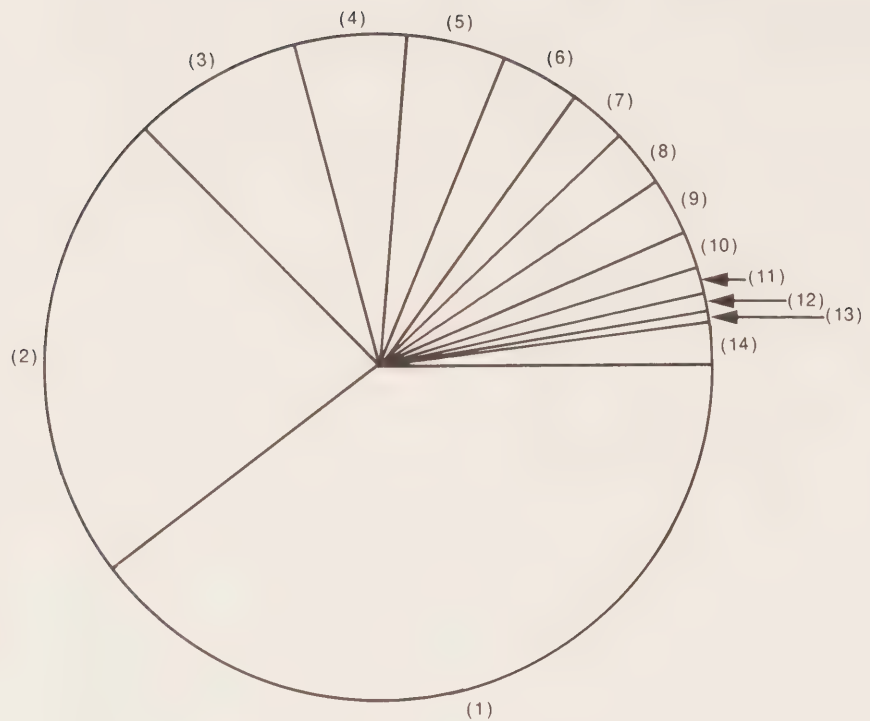
Applications By Area (cont'd)

Elliot Lake	4	Midland	1	St. Thomas	10
Elmira	1	Millbrook	3	Sarnia	11
Elmvale	4	Milton	2	Saugeen Reserve	1
Elora	1	Mississauga	39	Sault Ste. Marie	16
Englehart	1	Moosonee	1	Selbright	1
Erin	1	Morrisburg	1	Shelburne	1
Espanola	1	Morson	1	Simcoe	3
Fenelon Falls	2	Mount Forest	1	Sioux Lookout	2
Fergus	3	Mount Hope	1	Smith Falls	3
Flamborough	1	Mount Pleasant	1	Smithville	1
Flesherton	1	McKellar Township	1	Sombra	1
Fort Albany	1	Nanticoke	2	Southwold	1
Fort Erie	5	Napanee	5	Spencerville	1
Fort Francis	1	Nepean	6	Stirling	2
Gananoque	1	New Liskeard	1	Stittsville	1
Gloucester	5	New Osnaburgh	4	Stoney Creek	5
Goderich	1	Newcastle	1	Stratford	2
Grafton	2	Newmarket	4	Strathroy	2
Gravenhurst	2	Newtonville	1	Sturgeon Falls	1
Grimsby	2	Niagara	2	Sudbury	20
Guelph	11	Niagara Falls	25	Summerstown	1
Hagersville	1	Niagara-on-the-Lake	5	Sutton	1
Hamilton	86	Nipigon	1	Sydenham	1
Hampton	1	Nobel	1	Tecumseh	1
Hanmer	1	North Bay	9	Tehkummah	1
Hannon	1	Norval	1	Thedford	1
Haviland Bay	1	Oak Ridges	1	Thessalon	1
Hawkesbury	3	Oakville	3	Thorold	4
Hillsburgh	2	Oakwood	1	Thunder Bay	25
Howick	1	Ohsweken	1	Tilbury	1
Ignace	1	Orangeville	2	Tillsonburg	4
Ingersoll	2	Orillia	10	Timmins	4
Jarvis	1	Orleans	1	Township of Delhi	1
Kaladar	1	Oshawa	18	Twp. of Fredericksburg	1
Kanata	2	Ottawa	115	Toronto	677
Kearney	1	Owen Sound	1	Trenton	3
Kemptville	1	Palgrave	1	Trout Creek	1
Kenora	3	Parkhill	1	Turkey Point	1
Keswick	1	Parry Sound	2	Tweed	3
Killahoe	1	Pembroke	2	Uxbridge	3
Kinburn	1	Perth	3	Vanier	1
Kincardine	2	Petawawa	2	Vespra Township	1
King City	1	Peterborough	8	Wainfleet	3
Kingston	19	Petrolia	1	Wallaceburg	2
Kingston Township	1	Phelpson	1	Walpole Island	2
Kingsville	1	Pickering	5	Wanapite	3
Kitchener	22	Picton	1	Warminster	1
Lacseul Reserve	1	Porcupine	1	Waterdown	1
Lakefield	2	Port Colborne	5	Waterford	1
Lambeth	2	Port Credit	1	Waterloo	12
LaSalle	1	Port Elgin	1	Welland	6
Leamington	3	Port Hope	5	West Gwillimbury Twp.	1
Little Current	2	Port Perry	1	Whitby	6
London	66	Prescott	1	Whitefish Falls	1
Maidstone	1	Pslinch Township	1	Warton	2
Malton	1	Rainy River	2	Wikwemikong	1
Maple	1	Restoule	1	Wilo	4
Marathon	1	Richmond Hill	3	Windsor	78
Markham	3	St. Albert	1	Woodbridge	5
Mattawa	1	St. Catharines	29	Woodstock	3
Middlesex	1	St. Lambert	1	TOTAL	1,799

Types of Crime as Listed on Applications

Assault Causing Bodily Harm	717
Common Assault.....	375
Sexual Assault.....	149
Wounding	100
Murder.....	90
Assault Police	72
Attempted Murder	53
Resist Arrest	51
Robbery (with Assault)	51
Robbery with Violence.....	36
Aggravated Assault	34
Assault with a Weapon	21
Criminal Negligence	12
Manslaughter.....	7
Careless Use of Firearms	6
Arson	5
Mischief.....	5
Dog Bite	3
Common Nuisance Causing Harm	3
Intimidation by Violence	3
Assault with a Vehicle	2
Explosion (Bomb)	2
Attempted Rape	1
Weapons Dangerous	1
TOTAL	1,799

NB: "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 54 cases commonly referred to as "Child Abuse".



1) Assault causing bodily harm	39.9%	8) Resist arrest	2.8%
2) Common Assault	22.7%	9) Robbery with assault	2.8%
3) Sexual Assault	8.3%	10) Robbery with violence	2.0%
4) Wounding	5.6%	11) Assault with Deadly Weapon	1.3%
5) Murder	5.0%	12) Criminal Negligence	.7%
6) Assault Police	4.0%	13) Manslaughter	.4%
7) Attempted Murder	2.9%	14) Other	1.6%

NOTE: "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 54 cases commonly referred to as "Child Abuse".

COMPARATIVE SUMMARY
of
APPLICATIONS AND DISPOSITION

BY FISCAL YEARS
APRIL 1, 1982 to MARCH 31, 1986

COMPARATIVE SUMMARY — FISCAL YEARS APPLICATIONS AND DISPOSITION

	April 1, 1982 to March 31, 1983	April 1, 1983 to March 31, 1984	April 1, 1984 to March 31, 1985	April 1, 1985 to March 31, 1986
Eligible applications received	1329	1488	1697	1799
Applications under investigation	2005	2162	2453	2573
Applications heard (1)	928	925	1041	1233
Applications heard on documentary evidence	96	74	132	81
Applications heard but denied	93	59	67	48
Review of awards	3	6	6	3
Decisions completed and awards ordered (2)	950	970	1086	1220
Files closed	174	431	415	455
Interim awards	11	3	5	7
Supplementary awards	84	83	76	81
Periodic awards	17	18	15	12
Lump sum payments	\$2,328,957.11	\$2,677,791.38	\$2,693,372.73	\$3,382,775.91
Periodic payments	\$ 554,741.10	\$ 571,924.18	\$ 592,510.81	\$ 617,499.36
Total of awards ordered	\$2,883,698.21	\$3,249,715.56	\$3,285,883.54	\$4,000,275.27
Average award (3)	\$ 2,451.54	\$ 2,870.61	\$ 2,480.08	\$ 2,772.76

NOTE:

- (1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include files closed.
- (2) Includes Interim, Supplementary and Periodic Awards.
- (3) Periodic Payments not included when arriving at Average Award.

CONSOLIDATED SUMMARY OF AWARDS APRIL 1, 1985, TO MARCH 31, 1986

Months	Number of Awards	Medical Expenses	Loss of Earnings	Pecuniary loss to Relatives of Deceased Victim	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Legal Fees	Total Awards
		\$	\$	\$	\$	\$	\$	\$	\$
April	64	5,086	23,534	2,400	125,607	6,851	7,779	10,097	181,354
May	70	10,642	42,309		154,675	1,800	9,336	8,625	227,387
June	97	10,946	32,078		168,950	3,478	12,518	10,800	238,770
July	129	24,926	78,201	3,740	304,050	4,400	25,622	19,200	460,139
August	107	8,942	45,904		245,100	13,224	13,392	12,738	339,300
September	85	12,716	11,321	1,200	113,350	3,945	9,058	8,500	160,090
October	96	15,997	33,427	17,300	208,663	1,778	17,478	16,499	311,142
November	99	20,111	13,184		202,650	2,200	11,230	11,055	260,430
December	89	5,989	35,529		165,650	9,142	14,185	11,850	242,345
January	77	28,000	34,425		169,375	2,200	9,471	7,247	250,718
February	128	17,589	34,664		220,301	3,974	15,128	15,525	307,181
March	179	17,487	30,731	991	292,700	19,022	22,983	20,005	403,919
Total	1220	178,431	415,307	25,631	2,371,071	72,014	168,180	152,141	3,382,776
		5.28%	12.28%	.76%	70.10%	2.12%	4.98%	4.48%	
Total Monthly Periodic Payments									
Total Awards:									
									617,499
									4,000,275

EXAMPLES OF DECISIONS

April 1, 1985 to March 31, 1986

THE BOARD ORDER — AN EXPLANATORY NOTE

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action.

Under The Compensation for Victims of Crime Act, 1971, which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category.

Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant.

Section 22 of the Act provides for an order for costs, usually those entailed in making, or providing support to, an application.

Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently

- (a) new evidence has become available, or
- (b) change of circumstances has occurred, or
- (c) the Board considers any other matter relevant, on the application of any of the parties to the proceedings, the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this provision.

Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors.

As well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media, students and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a Hearing is held in camera or publication is restricted.

Examples of Decisions

FILE 922-011983

The applicant, a 34-year-old Essex truck driver, was attending at a local tavern where his wife was working, when he involved himself in a pool game with three other males, one of whom was the offender. During the game, a heated argument ensued between the offender and another player. The applicant interceded, suggesting they direct their energies toward the game. The offender then turned on the applicant and punched him numerous times on the face before and after he collapsed on the floor.

Hospital records indicate the applicant suffered extensive lacerations to both lips requiring 17 sutures to close, a blow out fracture of the left eye socket bone, extensive bruising and lacerations around the face, head, and body. The applicant's injuries were treated conservatively and no permanent disability is anticipated.

The offender was convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(a) travel for treatment \$45.00; 7(1)(d) pain and suffering \$1,800.00; 7(1)(f) travel expense to attend hearing \$15.00, for a total award of \$1,860.00.

FILE 922-015113

With the consent of the applicant, the Board heard and considered this application solely on the documentary evidence which had been filed with it.

The applicant, a 33-year-old police constable, was assisting another officer in the arrest of the alleged offender when the latter kicked the applicant in the groin.

The applicant suffered a bruised groin and swollen testicles. He was off work for one week. His wage loss was covered by The Workers' Compensation Board.

The alleged offender was charged with causing a disturbance and assault to resist arrest. At the time of the hearing, the trial was still pending.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$600.00, for a total award of \$600.00.

FILE 922-015050

The applicant, aged 87, was out walking with a friend when she was assaulted by a purse snatcher. She was grabbed and thrown to the ground.

She was taken to hospital and underwent surgery for a fractured hip. Her post-operative convalescence was complicated by confusion due to anaesthesia and surgery. The applicant's therapy consisted of graduated ambulation and at the time of discharge, six weeks later, she walked with a cane. It was noted that with this type of injury, the applicant has a 15% chance of running into further problems. The applicant also suffered psychological trauma, and is fearful of going out in public.

The alleged offender is unknown.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Sections 7(1)(a) special chair and bathtub rail \$140.00; 7(1)(d) pain and suffering \$3,500.00; solicitor's fee \$250.00 and disbursements \$205.00, for a total award of \$4,095.00.

FILE 922-014287

The applicant, a 28-year-old Toronto car painter, was siphoning gasoline from a van. The offender, a co-worker, approached him twice holding a cigarette lighter in his hand, asking if he wanted a light. The applicant told the offender to get away, as he was working with gasoline. A third time, the offender reached around from behind the van and flicked the lighter. There was an explosion and the applicant's clothes caught on fire. Apparently, it was a bad joke.

The applicant spent four months in hospital with burns to 40 percent of his body. He required massive intravenous fluid replacement and close monitoring of his vital signs. He sustained a devastating injury that might

have caused death in someone older and less fit. Once stabilized, he had daily burn baths which were extremely painful. He underwent surgery four times to remove dead tissue and for grafting of skin removed from his abdomen. He undertook physiotherapy, which he continues to the present time.

The applicant was subsequently fitted for compression garments which he wears 24 hours a day. He must also wear a splint on his left arm and leg when sleeping to prevent contraction of the scars. Burns scars encompass most of the left arm and dorsum of the hand and fingers, the left leg from groin to mid-calf, the right thigh to the knee, the back and buttock region. His abdomen shows scars from the skin grafting. He has trouble standing for any length of time and has a significant decrease in the strength of his left arm. He has had to learn to write with his right hand.

The applicant is not able to return to a job. His wages and medical expenses are being paid by The Workers' Compensation Board.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Section 7(1)(d) pain and suffering \$15,000, maximum lump sum award; and to solicitor for costs under Section 22, for fee \$350.00, and medical reports \$200.00, for a total amount of \$15,550.00.

FILE 922-010301

The applicant, a 24-year-old caterer, was in a confrontation with the offender who pushed him, causing him to slip and fall to the ground helpless. The offender continued punching the applicant on the face.

The applicant sustained bruising and swelling to his face, lacerations to both upper and lower lips, and a fractured upper central incisor. It was approximately four weeks before his facial injuries resolved. The fractured tooth had to be extracted and was replaced with a permanent bridge.

The offender was convicted of assault causing bodily harm, and sentenced to 10 days plus two years probation.

A civil action is pending against the offender, and the Board advised applicant's counsel of its right of subrogation should the applicant obtain a monetary judgment against the offender.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental

work \$1,260.00; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) travel expense to attend hearing \$28.00; solicitor's fee \$400.00 and disbursements \$115.00, for a total award of \$2,803.00.

FILE 922-014984

The applicant's 11-year-old son and 9-year-old daughter were murdered.

The claim is for funeral expenses, (re son) out-of-pocket expenses, loss of income, pain and suffering, and for child tax benefit which had been disallowed by Revenue Canada.

The Board allowed the claim for the son's funeral expense. The applicant did not have appropriate documentation for the Board to consider re loss of income. The applicant was advised of Section 25 of the Act. With regard to the child tax benefit, the applicant has recourse through appeal to Revenue Canada.

The applicant's claim for pain and suffering was disallowed because he was not able to prove nervous shock to the degree required within the provisions of the Act (i.e., a total disability to function due to nervous shock).

The juvenile offender was charged with murder under the Young Offenders' Act, and found not guilty by reason of insanity.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) maximum funeral expense and telephone calls \$2,400.00; 7(1)(f) net loss of income and travel expense to attend hearing \$125.00; solicitor's fee \$400.00 and disbursements \$40.00, for a total award of \$2,965.00.

FILE 922-013899

The applicant, aged 62, unemployed and living in Toronto, claims he was assaulted. Several witnesses, including the offender, testified before the Board, and gave varying accounts of what happened. There was evidence that stemming from a grudge the applicant had against the offender, he assaulted the offender first by punching him when the offender greeted him and a friend on the street. It is clear that the offender punched the applicant in retaliation.

The applicant was taken to a nearby medical clinic where four sutures were applied to a laceration over the right eye. The applicant complained of continued discomfort over the right eye, perhaps due to a damaged nerve.

Both the applicant and the offender swore out Private Informations. Each was placed on a recognizance to keep the peace for 12 months, or \$1,000.00 without deposit.

The Board declined to make an award, and invoked Section 17(1) of the Act. It found that on the balance of probabilities, the applicant demonstrated a willingness to pursue a course of confrontation which eventually led to his injuries.

FILE 922-012495

The applicant, an 82-year-old process server living in Keswick, attended at a Legion dinner with his wife, and they encountered some senior Legion officials. The applicant greeted each in turn, including the offender, whom he had known previously. The offender began uttering threats. He had been unhappy with the applicant's activities within the Legion.

The applicant ignored the threats and went to the washroom where he was suddenly struck from behind, receiving a violent blow to the head. He turned around only to receive another blow to the jaw. He recognized the offender before falling to the floor unconscious, possibly striking his head on a heating radiator.

The applicant was treated for cuts and lacerations to the forehead and left side of the lips, a major laceration at the rear of the skull, and a substantial blood clot located in the ear. The clot was removed, but the applicant suffered permanent hearing damage. The applicant's dentures were shattered, and four teeth were loosened and had to be removed.

The offender was convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance and travel for dental treatment \$247.00; 7(1)(b) loss of income \$1,000.00; 7(1)(d) pain and suffering \$3,000.00; 7(1)(f) travel expense to attend hearing \$41.50, for a total award of \$4,288.50.

FILE 922-013307

(Same occurrence as #200-5737, 922-013306 and 922-013308)

The application was brought by the applicant on behalf of his daughter aged 5½, and was filed after the one year limitation period to which the Board granted an extension.

The applicant was assaulted in his home by an intruder wielding a pair of scissors. In the ensuing struggle between the applicant, his wife and the offender, his daughter and her sister were pushed and tossed about.

Eight months after the incident, the victim saw a psychiatrist because her parents had become worried at her increasing withdrawal and introversion following the assault. She was diagnosed as having suffered an acute post-traumatic stress disorder and underwent five months of "play" therapy sessions.

Nearly six years later, the victim returned for counselling and therapy following a school-related psychological assessment, which determined that she required remedial help for developmental reading and arithmetic disorders.

Although the Board accepted the possibility that the assault was somewhat of a contributing factor to the victim's academic problems five years later, there was no evidence in its view to conclude that the victim's difficulties directly stemmed from the incident.

The offender was convicted of assault causing bodily harm, and given a suspended sentence and three years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering (nervous and mental shock) \$1,000.00, payable to the applicant to be used for the benefit of the victim, for a total award of \$1,000.00.

FILE 922-010828

The applicant, a 19-year-old student was at a house party where drugs and alcohol were being consumed. The guests became rowdy, and the applicant was asked to help escort a female guest from the premises. The female fell down some stairs, bumping into the offender, causing him also to fall on the stairs.

The applicant went outside for air, and as he was leaning against the wall, the offender approached him and suddenly stabbed him several times with a knife, and then fled.

The applicant was taken to hospital for treatment of stab wounds to the left side of his neck, and to his abdomen. He underwent abdominal surgery, a removal of part of his colon, a repair of a stab wound to the small intestine, and repair of a laceration to his left jugular vein. The applicant remained in hospital for ten days, and was readmitted a month

later complaining of abdominal pain. He was treated for a bowel obstruction. The applicant suffered occasional pain for about a year and a half, and lost forty pounds which he has not regained. He has a slight scar on his neck and a long scar on his abdomen.

The offender was convicted of wounding.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,800.00; 7(1)(f) travel expense to attend hearing \$64.00; solicitor's fee \$250.00 and disbursements \$29.00, for a total award of \$3,143.00.

FILE 922-013632

The applicant, aged 26 and unemployed, went to a dinner given by the offender with whom she had lived about six months previously. After dinner, they went for a drive.

The offender parked the car, and when the applicant declined to go for a walk, he dragged her from the car, and threw her to the ground, straddled her chest and began choking her until she became unconscious. Police believe that while the applicant was unconscious, the offender smashed her on the face and head with bricks. The applicant regained consciousness to find herself in a pile of rubble, with a refrigerator door over her.

The applicant remained in hospital for five days, and was treated for multiple facial lacerations and a fracture of her left zygoma (cheekbone) which later turned out to be an old fracture which could not be elevated. She later had plastic surgery. Skin grafts were taken from her groin, and used to reconstruct the soft tissue of her left cheek.

The skin grafts have not been a complete success. The applicant is left with some visible contour irregularity of the left cheek. The effect of the multiple small lacerations overlying this area give it a somewhat unsightly appearance. There is no prospect for improvement, and further surgery is not anticipated. The applicant also suffered from depression, nightmares and anxiety following the assault.

The offender was convicted of assault causing bodily harm and sentenced to two years less a day, plus one year probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$5,500.00; solicitor's fee \$450.00

and disbursements \$1,040.00, for a total award of \$6,990.00.

FILE 922-013979

The applicant, a 39-year-old tow truck operator from Alban was awakened by a knock on the door of his residence. He was requested by an unknown male to assist in retrieving his vehicle which had broken down on a side road. The applicant obliged.

Once they reached the side road, the applicant was suddenly struck across the face with a heavy box wrench, while inside the car, and was knocked unconscious. The applicant had no recollection from this point on. Police speculated that some of his injuries may have occurred after he had been pulled from the vehicle. The incident may have been linked to a grudge borne against him by his neighbour who was a known associate of the alleged offender.

The applicant was treated for multiple lacerations to his scalp, temple, lip, right eyebrow, nose and forehead region. The lacerations were sutured. He also suffered a compound fracture of the nose, a fracture to the left cheekbone, a fracture of the ninth left rib, with internal collection of air around the rib, abdominal trauma with partial separation of the spleen, contusions to both knees with fluid build-up in the right knee joint, and six fractured teeth. A stove-pipe cast was applied to the right leg for a period of two weeks.

Ten months after the incident, the applicant was experiencing frequent headaches, and was suffering from extensive facial scarring, as well as a deformity of the nose due to an uncorrected deviated nasal septum, and six unrepaired fractured teeth. He will probably experience some long-term disability. The applicant was advised of Section 25 of the Act regarding future dental work, or nasal surgery, as well as loss of income.

The offender has not been apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being aggravated assault, and ordered compensation under Sections 7(1)(a) ambulance \$22.00; 7(1)(d) pain and suffering \$6,000.00; 7(1)(f) travel expense to attend hearing \$26.00, and to dentist \$70.00. Documentation was subsequently received supporting loss of income. The Board varied the order, and awarded further compensation under 7(1)(b) loss of income (21 week

period) \$1,500.00, for a total award of \$7,618.00.

FILE 922-013118

The applicant was aged 58 and employed as a labourer in Oakville. There are conflicting accounts of the occurrence. The applicant alleged that he was accosted by a man with a knife and that the man threatened to kill him. Then he claimed a struggle ensued and in the process he was stabbed in the back. According to the applicant, he forced the man to drop the knife, which he claimed he gave to a young man who happened by. The young man, the applicant and the alleged offender then proceeded to a store where police were called.

On the other hand, the alleged offender, and an independent witness, testified that it was the applicant who had the knife, and that he was the initial aggressor.

The applicant was in intensive care at hospital because of a stab wound that had penetrated his left chest. He remained in hospital for a week, and was kept under observation, given blood and put on an I.V. His doctor advised he appeared visibly frightened and shaken, and complained of having suffered left chest pain for several months. The applicant was unable to work for about five months following the incident.

Due to the conflicting nature of the various statements, no charges were laid by police. The Board was troubled by the conflicting evidence and the applicant's lack of credibility as a witness. After due consideration to Section 17(1) of the Act, the Board decided to give the benefit of the doubt to the applicant.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and ordered compensation under Sections 7(1)(a) drugs \$109.16; 7(1)(b) net loss of income over five months \$2,171.00; 7(1)(d) pain and suffering \$900.00; 7(1)(f) travel expense to attend hearing \$6.00; solicitor's fee \$300.00 and disbursements \$123.50. The applicant subsequently made a claim under Section 25 of the Act for a Variation of Order, and further compensation was ordered for interpreter services rendered at the hearing \$180.00, making a total award of \$3,790.66.

FILE 922-010927

The applicant, aged 20 and a part-time carnival worker from Sudbury, became involved in an evening-long dispute at a hotel with two

men who had thrown beer bottles at the applicant and his female friend.

The applicant asked the offenders to desist. One of the offenders punched the applicant in the face. In self defence, the applicant punched both offenders and fled. He visited with a friend, and later returned to the hotel and again encountered the offenders who assaulted him with broken beer bottles. He was slashed about the face, neck, head, hands and right eye. He was also bitten on the back of the neck and kicked in the mouth.

The applicant sustained a star-shaped laceration to the centre of his forehead extending up into the hairline, a number of ragged lacerations around the right eye, a laceration to the left side of the neck, and extensive lacerations and tendon damage to the back of both hands. He underwent a long operation to debride and suture his lacerations and repair the slashed tendons. The applicant was in hospital for three days. His hands were in splints for three weeks. Further surgery was required on the right hand to remove scar tissue that was binding the tendons together and limiting the movement of the hand and fingers. Because of his injuries, the applicant was unable to work at his carnival job for a total of seven months.

The offender was charged and convicted of wounding.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$5,270.00; 7(1)(d) pain and suffering \$3,000.00; and solicitor's fee \$300.00, for a total award of \$8,570.00.

FILE 922-013379

The applicant, a 24-year-old police officer, was responding to a reported disturbance in St. Catharines. The offender in this case refused to leave the premises where he was causing trouble. He was placed under arrest and a struggle ensued and in the process of subduing him, the applicant received a fractured finger.

The applicant's arm was put in a cast from his right hand to his elbow for six weeks. The knuckle was shattered and still causes him pain daily. He has lost the ability to grip with his fifth finger and this poses problems when the applicant has to draw his gun.

The offender was convicted of causing a disturbance and resisting arrest.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) hospital records, doctors reports and certificate of conviction \$86.20; solicitor's fee \$250.00 and disbursements \$56.00, for a total award of \$2,392.20.

FILE 922-011386

Heard in Camera

The applicant, a 44-year-old school teacher, was punched by a male offender while trying to stop a female offender from abducting one of her students from her classroom. She was knocked against some desks and fell to the floor.

The applicant sustained a dislocated and fractured ankle, and a broken fibula (shin bone). Her ankle was splinted and then an open reduction was performed later that day. The applicant remained in hospital for six days. In spite of a year of daily physiotherapy sessions, the ankle continued to cause walking problems because of swelling and pain, and difficulty in fulfilling both her domestic and professional duties.

Nineteen months later, the prognosis was a permanent disability of movement in the applicant's ankle, which will probably persist and worsen. The applicant was unable to return to work for eighteen months, and is very dependent upon her husband, to aid with day-to-day responsibilities. In light of future possible medical considerations, the applicant was advised of Section 25 of the Act.

At the time of the hearing, a warrant was still outstanding against the offender.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Section 7(1)(d) pain and suffering \$5,000.00, for a total award of \$5,000.00

FILE 922-012721

INTERIM ORDER

(Held in Camera)

As a result of her husband's death by stabbing, the applicant made a claim for expenses incurred and loss of income she and her infant children had sustained.

A hearing was scheduled, but adjourned sine die in view of an Appeal by the offender against his conviction and sentence.

The Board then received a request from the applicant for consideration of an award for Interim Compensation. A Hearing was scheduled and the parties duly notified. The offender gave notice that he wished to exercise his right of addressing the Board. His solicitor attended on his behalf.

The Board did not wish to prejudice the offender's right of Appeal and declared that the proceedings be held in camera, and publication prohibited.

With the consent of the applicant, her solicitor, and the solicitor for the offender, the Board proceeded to consider awarding interim compensation in accordance with Section 14 of the Act.

The Board found that the applicant will be in actual financial need, and ordered interim payments in respect of maintenance and medical expenses. In the event that compensation is not awarded, the amount so paid (under Section 14) is not recoverable from the applicant. The amount ordered is \$500.00 per month commencing March 1, 1986.

FILE 922-013109

The applicant, a 53-year-old store security guard in Kitchener, confronted a shop-lifter and asked him to return to the store. The shop-lifter refused. The applicant then told him he was under arrest. A struggle ensued which resulted in both men falling to the ground, the shop-lifter falling on top of the applicant's leg and hip.

The applicant suffered three fractures to the hip and pelvic area. These fractures were undisplaced and were treated conservatively. Despite the fact that x-rays revealed that the fractures have healed completely, the applicant is in constant pain, walks with a limp, and now uses a cane. He had to use crutches for the first year. He is subject to periodic weakness in his leg and his surgeon reported that the applicant "has never really gotten better."

The applicant has been placed on half-time with regard to his working hours and he received a 10% disability pension from The Workers' Compensation Board. The Workers' Compensation Board also covered part of his lost wages.

The offender was convicted of assault causing bodily harm.

The Board noted the devastating effect that this injury had on the applicant's previously

healthy, active lifestyle. It found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(b) loss of income \$1,178.00; 7(1)(d) pain and suffering \$8,000.00; 7(1)(f) loss of income to attend hearing and travel expenses \$129.50; solicitor's fee \$450.00 and disbursements \$480.50, for a total award of \$10,238.00.

FILE 922-012969

The applicant aged 29 and an industrial painter living in Kingston, was in a tavern with his friend. His friend wanted to see a man with whom he had a longstanding problem, and with whom he wanted to "even the score".

The applicant offered to drive his friend to the man's house. Coincidentally, at that man's house was the offender with whom the applicant had had a disagreement. This man had received information that the applicant was on his way over, and feared the worst. When the applicant and his friend arrived at the house, the offender appeared at the head of the stairs leading to the upper hallway and fired a shot from a handgun he was carrying, the bullet striking the applicant.

The bullet went through the applicant's chest and entered the spinal canal where it began to break up. He was found to have total paraplegia with absence of all reflexes below the neck. In addition he had a severe chest injury, with 3½ litres of blood in his chest, which was an immediate threat to his life. He has been left a permanent paraplegic and is paralyzed from the neck down. The applicant has ongoing expenses for drugs and personal care needs not covered under OHIP in an amount of \$270.00 per month.

The offender was convicted of assault causing bodily harm, and sentenced to two years less one day.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation (a combination lump sum and periodic award) under Sections 7(1)(a) ongoing drugs and personal continuing periodic payment of \$270.00 per month from date of occurrence; 7(1)(b) loss of income, continuing periodic payment of \$150.00 per month from date of occurrence; 7(1)(d) pain and suffering, lump sum payment \$7,500.00 — to be paid to the applicant's brother for purchase of suitable vehicle to enable applicant to travel from his home to his place of work; 7(1)(f) loss of income to applicant's common-law wife

\$250.00, travel expense for applicant to attend hearing \$111.72, and to solicitor under Section 22 (Costs) fee \$250.00 and disbursements \$605.00.

FILE 922-012745

The applicant, a 56-year-old farmer, was vacationing at a trailer camp. He was awakened by the sound of a car on the gravel roadway. He saw a man go into his shed and open his refrigerator.

Fearing theft, the applicant went out to confront the man. The man was able to get into his car. The applicant grabbed and hung on to the man's neck. The man gunned his car with the door still open. The applicant was kneeling on the door step, grappling with the man. Another man in the passenger seat of the car reached over and punched the applicant on the forehead and left ear. The man driving the car aimed for the open car door to hit a steel telephone box on the side of the roadway. The car hit the telephone box, and the applicant was crushed against the car frame and fell to the road. The offenders drove off.

The applicant was treated for a severe contusion of the left lower leg. He also had abrasions of the first three right toes, a contusion and minor abrasions over the right lateral buttock and a five inches by six inch abraded area over the right flank. He also complained of right shoulder pain and had a swollen ear and contusions to the right temple. The leg was packed in ice while he was in hospital.

The applicant remained in hospital for three days. When released, he had to use crutches for a month and a tensor bandage for three months. The leg was tender and weak for a long while, and was still somewhat swollen and painful at the time of the hearing. The applicant still has a hardened area under the skin of the lower left leg. His other bruises and abrasions resolved in about one month.

The applicant made no claim for loss of income.

The offender was convicted of break and enter and theft and sentenced to thirty days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) travel expense to attend hearing \$40.00, for a total award of \$2,540.00.

FILE 922-013613

An extension of the limitation period was granted for this application.

The applicant, a 28-year-old child care worker at a detention centre in London, attempted to restrain a juvenile inmate who had just been ejected from a classroom by a teacher. Another staff member arrived and assisted the applicant in calming the juvenile, but all three persons fell to the floor with the applicant at the bottom of the heap.

The applicant was admitted to hospital with a grossly swollen left knee, impairing the applicant's mobility and with considerable tenderness about the knee joint medially. He was placed on crutches and physiotherapy was commenced three months later. Four months after that, he underwent surgery to repair the torn exterior cruciate ligament which he had re-injured subsequent to this incident.

The applicant will be restricted with respect to participation in sports events, something in which he took great pleasure. Total temporary disability benefits were paid to the applicant by The Workers' Compensation Board.

The Board took note of the fact that the alleged offender did not intend to injure the applicant. It was unable to conclude that the applicant was a victim of crime within the meaning of Section 5(a) of the Act and, accordingly, declined to make an award for compensation. The Board, however, did make an order under Section 22 for fee and costs to the solicitor in the amount of \$510.00.

FILE 200-9620

The applicant, a 20-year-old Toronto office clerk, was out jogging shortly after midnight. He got into an encounter with a dog, then the dog's owner, and two of the dog owner's colleagues. He was struck on the left side of his face, knocked down and kicked several times.

The applicant was treated for a laceration to the right earlobe. Four sutures were applied. He also suffered undisplaced fractures of the left foot, the distal second and third metatarsal bones. A cast was applied. The applicant claimed in addition to what was mentioned in the medical reports, a laceration over his right eye and massive bruising and swelling over the body, from the knees to the shoulders.

The applicant is left with a minor disturbance in the balance of the left foot, which may result in the formation of callouses over the forefoot

area, but which will cause no significant limitation. Over a period of 18 months occasional foot discomfort was experienced, and the applicant's sports activities, skiing and team baseball, were substantially curtailed. He is no longer able to play in the more competitive baseball leagues.

All three offenders were convicted of assault causing bodily harm.

In a civil suit against the offenders, the applicant was able to recover \$7,000.00 for pain and suffering, and \$1,000.00 restitution. These amounts are substantially in excess of what the Board might award under pain and suffering and loss of income. Therefore, the Board declined to make an award to the applicant, but did allow costs to the solicitor under Section 22 of the Act, for fee \$300.00 and disbursements \$10.00, for a total amount of \$310.00.

FILE 200-8193

Publication prohibited; heard in camera

The applicant was not aware of the Board until 1980. She was granted an extension of the limitation period in which to file an application, the following year.

On August 25, 1973, the applicant, a 50-year-old sewing machine operator, was struck on the head with a hammer, punched on the face under the right eye, and sexually assaulted under threat of death. The offender was a friend's son, and the applicant had allowed him into her home to use the bathroom.

The applicant suffered a depressed fracture of the skull, concussion and bruising and swelling below the right eye. She received eight sutures for a skull laceration. The dizzy spells and unsteadiness from which the applicant had already been suffering, were exacerbated by the head injury. She also suffered frequent numbness on the left side of her face and left arm.

For the past five years, the applicant has not been able to work due to dizziness, instability, headaches, tension, anxiety and uncontrolled angina. Her family doctor noted nine years after the assault that her personality has been affected. She was frightened, insecure and at times panicky. This affected her performance at work, and her relationship with friends and her husband. The applicant was off work for five weeks after the incident, and her income loss for that period was covered by private insurance benefits.

The offender was convicted of attempted rape and sentenced to ten years in prison.

The Board found that the application qualified under Section 5(a) of the Act, but reserved its decision on an award for pain and suffering pending receipt of hospital records and an up-to-date medical report. It did award compensation under Section 7(1)(f) travel expenses to attend hearing and doctors reports \$397.00; and to solicitor for disbursements \$48.00, for a total amount of \$445.00.

FILE 922-011936

The applicant, aged 45 and employed, was conducting a garage sale together with the offender with whom she had an arrangement to split the proceeds.

In the afternoon, the offender appeared and demanded all the proceeds of the sale. The applicant refused and reminded him of the prior agreement to split the proceeds. The offender became irate, pushed the applicant against a wall, and punched her in the face.

The applicant was taken to hospital where it was found she had a fractured jaw. She underwent a closed reduction to repair the fracture, but complications arose and two additional surgical procedures were required, causing great discomfort. She has been left with a difficulty in chewing food.

The offender was convicted of assault causing bodily harm.

The applicant did not claim for loss of income.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(d) pain and suffering \$1,200.00 for a total award of \$1,221.00.

FILE 922-013981

The applicant, a 26-year-old unemployed man, was drinking at a hotel when he encountered a separated woman he had been seeing. He and the woman had an argument, and the applicant verbally abused the woman in front of her husband who was also present. The husband punched the applicant, breaking his jaw.

The applicant sustained a fracture through the angle of the left side of the mandible (lower jaw). He underwent a closed reduction and intradental arch wiring, and left hospital five days later. Two months afterwards the wires were removed. The applicant also had a damaged tooth, which was later removed.

The alleged offender was charged with assault causing bodily harm, and was found not guilty and acquitted.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental expenses, blender and waterpick \$97.00; 7(1)(d) pain and suffering \$1,500.00; solicitor's fee \$300.00 and disbursements \$174.84, for a total award of \$2,071.84.

FILE 922-012131

The applicant, aged 27 and unemployed, was sitting in a Windsor tattoo parlour when he was suddenly assaulted by two males with a baseball bat and a piece of 2x4. He was knocked unconscious.

The applicant had suffered a compound fracture of the skull and underwent a craniotomy (brain operation) to repair the fracture and remove a blood clot. He was in hospital for six weeks. He underwent two further operations to repair the serious skull deficit, each of which kept him in hospital for ten days. A plastic plate was inserted in his skull. He was admitted to rehabilitation hospital for three months and a rest home for approximately 1½ years.

Although he suffered brain damage and left-sided paralysis, the applicant has made a remarkable recovery. He has been left with decreased sensation to the left side and some problems with balance. He is on daily medication to control headache pain, must now wear glasses, and cannot drive a car. The applicant has not worked since the occurrence and is presently on a disability pension.

There is evidence that the applicant's brother had some prior dealings with the offenders, who were out to get him. The applicant seems to have been involved simply because he was with his brother.

The offenders pleaded guilty to assault causing bodily harm, and were sentenced to nine months in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$8,000.00, to be paid in two installments of \$4,000.00 each, one in 1986 and the other a year later in 1987; solicitor's fee \$350.00 and disbursements \$149.00, for a total award of \$8,449.00.

FILE 922-013419

The applicant, a 28 year old Sudbury cab driver became the victim of an assault when a man got into his cab, grabbed him by the hair, held a knife to his throat and demanded all his money. He was threatened with death if he did not co-operate.

The terrified applicant was attempting to find the money in his pocket, when the man cut him on the cheek and neck, and then suddenly hit him on the back of the head. That is the last thing the applicant remembers before waking up in hospital.

The applicant remained in hospital for seven days and was treated for severe headaches. He continued to take medication for several months. He had also suffered abrasions to the right side of his face. The applicant has a phobia about driving taxis at night, and has worked the day shift since the occurrence. He was off work for eight days.

The alleged offender has not been apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(a) ambulance \$22.00; 7(1)(b) net loss of income \$236.00; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) loss of income to attend hearing \$35.00, and in a subsequent Variation of the Original Order, eye glasses \$178.00 and to legal clinic for disbursements \$103.08, for a total award of \$3,074.08.

FILE 922-014487

The applicant is the mother of the victim.

The victim, aged 12, was shot while bailing hay at a farm. A bullet from a .22 calibre rifle entered the victim's chest on the left side and split into four pieces which lodged near his lung and breastbone. The victim collapsed and lost consciousness.

Upon arrival at hospital, the victim had no pulse, no blood pressure and was considered to be near death. Speedy measures by a doctor at the hospital revived the victim and stabilized his vital signs. He was then flown to a hospital in Toronto, where he remained for one week for observation and treatment of a bruised left lung.

The victim recovered uneventfully and without lasting effect, except for a period of nightmares lasting three months. He attended two sessions of psychological treatment by a

private counsellor. When leaving hospital he was told not to participate in contact sports for a duration of three weeks to a month.

The offender was convicted of criminal negligence causing bodily harm and sentenced to six months in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) medical expenses \$80.00; 7(1)(f) travel expense to attend hearing \$76.00, and to solicitor for fee \$350.00 and disbursements \$188.60, to the Accountant of the Supreme Court of Ontario to be held in trust until the victim reaches the age of majority \$4,150.00 for pain and suffering, for a total award of \$4,844.60.

FILE 922-014404

The applicant, a 29 year old gas bar attendant was at his place of work and when he saw the offender harassing two young girls trying to obtain air for their bicycle, he went to the girls' aid.

A verbal argument ensued and the offender punched the applicant five times on the face, knocking him to the ground unconscious. The offender continued the assault, banging the applicant's head on the concrete, and kicking him repeatedly in the face, throat and ribs.

The applicant was hospitalized for five days and treated for a mild cerebral injury, contusions to the face, head, and neck, a displaced nasal fracture, a fracture of the right cheek, swollen eyes with blurred vision in the left eye, and bruising to the ribs and groin area. The applicant suffers from nasal pain, daily nose bleeds, and an element of psychogenic disruption due to trauma.

The offender was convicted of aggravated assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) OHIP differential, drugs, ambulance and optical aids \$209.10; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctor's reports \$75.00, to doctor \$175.00, for a total award of \$4,459.10.

FILE 922-010466

The applicant, aged 62 and retired, was walking in Caledonia with his brother when they were set upon by three male assailants beaten about the head and face and then robbed. A pedestrian found the applicant and his brother lying on the sidewalk unconscious.

The applicant remained semi-comatose for several days after having sustained a severe concussion of the brain with probable brain contusion. He also sustained a laceration behind the left eye, requiring sutures and a fractured nasal bridge requiring closed reduction. Two months later, a small blood clot was discovered over the right frontal lobe of the brain, however it was not considered large enough to warrant surgical removal.

After five months of hospitalization, test results showed that the applicant had suffered a clear loss of brain substance causing a considerable impairment of intellectual capability and mental capacity, resulting in poor memory, lack of concentration, disorientation and confusion. He also sustained loss of vision in his left eye, leaving it virtually blind. Due to the frontal lobe contusion, the applicant had suffered permanent unsteadiness on his feet. The applicant now has a permanent mental disability, and his activities are of a very limited nature.

The offenders were charged with assault causing bodily harm and robbery.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$15,000.00 (the maximum allowed), and under Section 22 to applicant for expenses \$108.00; solicitor's fee \$300.00 and for disbursements \$329.25, for a total amount of \$15,737.25.

FILE 922-014382

The applicant, a 36-year-old Burtch engineer on duty in a correctional facility was about to unlock the door to the power room when he was struck from behind by an inmate wielding a hammer. He fell to the ground and was attempting to regain his feet when another inmate began assaulting him with his fist and feet, and then with the hammer. The inmates wanted the keys to the institution. The applicant surrendered himself and his keys, and was locked in a supply room. The inmates fled in the applicant's car.

The applicant had sustained three lacerations to the back and top of the head, for which he received sutures, abrasions to the face and upper lip, and several bruises to the left thumb and right wrist. He was off work two weeks. He has substantially recovered but is now anxious about the dangers of his job.

The offenders were convicted of robbery.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$1,500.00; 7(1)(f) travel expense to attend hearing \$16.00, for a total award of \$1,516.00.

FILE 200-7870

VARIATION OF ORDER — SECTION 25

The applicant is the father of the victim.

The victim, aged 20, was assaulted by her fiancé who suddenly went berserk in their apartment in Toronto.

The victim lapsed into a coma and was transferred to hospital. She sustained a large clot on the left side of her head between the skull and the brain. She survived surgery, and was flown to England where she now resides with her parents. She remains in a vegetative state, unable to move any of her limbs and requires 24-hour a day care. Her mother gives her the attention she requires.

The Board in its original order awarded a maximum lump sum award, plus costs. The Board now proposes to change the award from a lump sum maximum award to a combination lump sum and periodic maximum award. Therefore, the Board now orders under Sections 7(1)(a) maximum periodic award \$500.00 per month, subject to annual review; 7(1)(d) pain and suffering \$7,500.00; 7(1)(f) legal fee \$300.00.

FILE 922-013410

The applicant, a 45-year-old worm picker arrived for a shift at a golf club in Burlington, and was awaiting her employer who had a contract with the club. She was changing into her work clothes, when the club owner approached her pointing a firearm at her. He told her and a nearby group of worm pickers to get off the premises. Impeded by her problem with the English language, the applicant tried to explain she was awaiting her employer, but the club owner fired a shot at the left rear wheel of her vehicle, damaging the hubcap. The applicant was severely shaken by this event.

A psychiatric report indicates the applicant suffered "chronic anxiety neurosis of post-traumatic origin associated with reactive depression." The applicant continues to see her psychiatrist monthly and is being treated with medication.

The offender was charged with pointing a firearm and was convicted of possession of a dangerous weapon.

The Board found the applicant failed to prove she was the victim of debilitating nervous shock as understood under the Act. However, it did accept that she suffered some degree of anxiety and reactive depression as a result of the incident. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(a) prescription drugs \$34.52; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) travel expense to attend hearing \$35.00, to translation service \$80.00, for a total award of \$1,149.52.

FILE 200-9604

This is a variation of an award in which the Board found the applicant's daughter to be a victim of crime, namely murder, and awarded the applicant funeral expenses.

In the original order, the Board concluded that it "was not satisfied that there was sufficient evidence to establish that the applicant had sustained the kind of mental disorder that would qualify for the injury "nervous shock" and entitle her to an award for pain and suffering. Precedent dictates that a third party, to be a victim of crime must prove that he/she has suffered an emotional disorder which can clearly be distinguished from the grief or sorrow which would be considered "normal" under tragic circumstances.

Three years after the original order, the Board noted that the applicant presented a very "flattened personality." It also heard extensive medical evidence which indicated that the applicant was suffering a "mental disorder" and/or "psychiatric illness" which was clearly linked to the death of her daughter. The Board concluded that the applicant's condition had deteriorated since the date of the original hearing in that she did not experience a "normal" long-term emotional recovery from the grief caused by the death of her daughter.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Section 7(1)(d) pain and suffering \$4,800.00, solicitor's fee \$300.00 and disbursements \$644.95, to three medical doctors who attended the hearing for fee \$150.00 each, for a total award of \$6,194.95.

FILE 922-012590

The applicant a 21-year-old labourer was attending at a local hotel in Collingwood. At one point in the evening, the applicant observed the offender picking up his jacket by mistake from the barstool. He pointed out the error to the offender and resumed his seat at the bar.

A few minutes later, without any warning, the offender approached the applicant, slashed him once across the face with a knife and stabbed him several times in the chest and right shoulder.

The applicant was taken to hospital where the relatively minor wound to the left cheek was treated and bandaged. His condition was stabilized and he was transferred to Toronto. Doctors determined that one stab wound had gone through the diaphragm and produced a splenic laceration. The spleen had to be removed. He was also treated for a perforated colon and remained in hospital for a month. He returned three months later for follow-up surgery which required a three-week stay.

The applicant was able to return to work seven and a half months after the assault, but is left with considerable scarring to his face, shoulder and chest. He still experiences bouts of depression as a result of the incident.

The offender was convicted of aggravated assault.

The Board found that the application qualified under Section 5(a) of the act and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(b) net loss of income \$3,850.00; 7(1)(d) pain and suffering \$6,000.00; 7(1)(f) travel expense to attend hearing \$78.50; solicitor's fee \$300.00 and disbursements \$89.00, for a total award of \$10,338.50.

FILE 922-013293

The applicant, a 57-year-old real estate agent, was attempting to move into a house she had purchased from the offender that day. As she was carrying a box into the house, the offender confronted her and told her she could not take possession of the house until later that afternoon. An argument ensued, and the offender then shook the applicant by the shoulders and flung her into a plaster wall.

At hospital, the applicant was found to have sustained a compression fracture of the spine which triggered severe pain in the same area where she suffers a chronic degenerative disc

disease. She was put on medication. Her doctor mentioned the possibility of her developing a painful case of arthritis at the fracture site. She was off work four months and has been limited in her activities since.

The offender was convicted of common assault.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(b) loss of income \$8,500.00; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctors reports \$140.00, for a total award of \$12,661.00.

FILE 922-010322

The applicant is a children's aid society on behalf of the victim, a minor.

The victim, a two-year-old infant, was immersed from the waist down in scalding water by her mother. A neighbour called an ambulance, and the victim was transported to hospital.

The victim had sustained second degree burns from the waist to her knees and third degree burns to her feet. An operation was immediately performed to release intense swelling of the legs. Both legs required skin grafting. Later hypertrophic scars were appearing across some of the victim's joint creases and she had lost the tips of some of her toes. The victim was only capable of flexing her knees to 90 degrees because of the scars and her right ankle was restricted in its flexibility.

Nearly three years after the incident, the victim underwent reconstructive surgery to preserve the functioning capabilities of her feet. She will require further surgery if she experiences contractures during rapid growth spurts. Moreover, it is likely that the victim's scars and deformity will be permanent. In addition, the victim underwent two and a half years of play therapy with a psychologist to come to terms with what happened to her. The victim's foster parents plan to adopt her.

The offender, the victim's natural mother, was convicted of assault and received a suspended sentence and three years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation for pain and suffering of \$15,000.00 (a maximum lump sum payment) payable to the Accountant of the Supreme Court of Ontario under Section 36(6) of The Trustee Act to be held for the victim until she

reaches the age of 18, subject to annual review, and for photographs \$45.00, for a total award of \$15,045.00.

FILE 922-015057

The applicant aged 27 was working as a delivery man for a fast food restaurant in Niagara Falls. When he got out of his parked car to make a delivery, a man crouching at the rear of the car leaped at him. In the ensuing struggle the applicant was stabbed in the abdomen.

The applicant was severely injured, and had to be resuscitated. He underwent an emergency abdominal operation (laparotomy) with repair to the stab wounds including the removal of his left kidney and his spleen, and repairs to his pancreas. A second operation was required to resect a portion of his colon and to release adhesions. While in hospital he developed pneumonia. When released from hospital he was extremely weak and required daily nursing visits. He was again admitted to hospital for one week when he developed a stress ulcer and abdominal bleeding. He is left with a large abdominal hernia and a defect which will require another hospital admission and surgery. He lost 30 pounds.

The applicant has not been physically able to work since the occurrence. He has received some benefits for loss of income, and was advised that should he not be covered in this regard he may contact the Board for consideration of a claim for loss of income under Section 25 of the Act. The applicant should also make a further claim for pain and suffering after further surgery.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being robbery, and ordered compensation under Section 7(1)(d) pain and suffering \$7,500.00; 7(1)(f) travel expense to attend hearing \$22.20, for a total award of \$7,522.20.

FILE 922-013807

(Heard in Camera and Publication Prohibited)

The applicant is The Official Guardian for the victim, a minor.

The victim was physically and sexually abused over a three-year period by her father. The victim ran away from home and was subsequently picked up by the police and was made a Crown Ward.

Psychiatric assessments indicate the victim was seriously lacking in confidence, experiencing guilt, and harbouring a terrific amount

of anger towards her father. She was also deemed to be mistrustful of adults and experiencing a great deal of inner conflict. As well, having moved from her country of origin, she was experiencing difficulty with cultural change. She is now doing well academically, accepting routines, getting along well with adults and her peer group, and is receiving ongoing counselling.

The offender was found guilty of incest and gross indecency, and was sentenced to 18 months in jail, plus three years and 18 months concurrent.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation for pain and suffering in the amount of \$6,000.00, under Section 36(6) of The Trustee Act, payable to the Accountant of the Supreme Court of Ontario, to be held to the victim's credit until her age of majority, subject to annual review.

FILE 922-012385

The applicant a 32-year-old unemployed Toronto park maintenance worker, was at home with his wife entertaining his brother and his brother's girlfriend when he heard a knock on his front door. A man standing outside demanded the applicant's wallet and attempted to force himself inside. The applicant punched the offender in the face, who reeled back and drew a gun. The offender then started shooting. The first or second shot hit the applicant's wife and when the applicant went to help her, he too was shot.

Upon arrival at hospital, it was noted that the applicant had sustained a gunshot wound with entry through the right chest and exit out the upper back, fracturing the right third rib and passing through the upper lobe of the right lung. A chest tube was inserted for drainage purposes and the bleeding stopped soon after. Within a few days an infection developed in the lung and quickly spread to the left one. The left lung barely maintained its ability to function and as a "life-saving measure" the applicant had to have his severely infected right lung removed. A second infection developed a month later and two ribs in the right chest area had to be removed.

The applicant was discharged from hospital two and a half months after his original injury. He made a steady recovery and was eventually able to perform everyday activities. He is still severely hampered in his ability to perform vigorous physical activities.

The applicant's wife readily admitted that she and her husband had been selling marijuana from their home for several months.

Evidence collected by police also suggested that the two offenders knew that the applicant dealt drugs and that he had a significant number of bills in his wallet. The applicant had previous convictions for possession of narcotics for the purpose of trafficking.

With consideration to Section 17 (1) of the Act, the Board found that by involving himself in selling drugs on a regular basis, an activity considered to have inherent risks, the applicant directly contributed to his injuries. The application was denied, but the Board ordered payment of costs under Section 22 of the Act to the applicant's solicitor for fee \$300.00, hospital records \$34.75, doctor's report \$75.00, for a total amount of \$409.75.

FILE 922-014806

The applicant, a 20-year-old college student, was sexually assaulted by a man she had met at her roommate's party. The incident occurred in the offender's apartment, where she was kept captive throughout the night.

The applicant suffered bruises on the right shin and left arm, an abrasion on the back, and continued soreness in the vulvar region. Far more severe was the post-rape depression that the applicant suffered, which has not resolved itself over two years after the incident. The applicant underwent psychotherapy to cope with this depression.

The offender was convicted of sexual assault causing bodily harm, and was sentenced to two years less a day imprisonment.

The Board found that the application qualified under Section 5 (a) of the Act, and ordered compensation under Sections 7(1)(a) drugs \$8.95; 7(1)(d) pain and suffering \$5,000.00; 7(1)(f) travel expense to attend hearing \$17.50; solicitor's fee \$200.00 and disbursements \$148.00, for a total award of \$5,374.45.

FILE 922-013596

The applicant, 34-years-old resident in Ottawa and unemployed, picked up two hitchhikers. He told them that his destination was only half way to where they wanted to go. The hitchhikers accepted his offer, but when the applicant reached his destination, they refused to get out of the car.

One of the hitchhikers then produced a sawed-off rifle and forced the applicant to drive them the remainder of the distance to

their destination. Upon arrival, he demanded the applicant's money. The applicant refused, saying they would have to shoot him first. The hitchhiker then shot him. The two hitchhikers relieved the applicant of \$2,400.00 and fled.

The applicant was taken to hospital where a wound to his right flank was cleaned, packed, and bandaged. The bullet had only grazed the liver, and there was no substantial damage to the abdomen area. The applicant returned once for follow-up treatment.

Police report that parts of the applicant's statement provided to them were contradictory to evidence they had obtained. The applicant refused to aid a police investigation. The alleged offender was not apprehended.

With consideration to its obligation under Section 17(2) of the Act, the Board concluded that the applicant refused reasonable co-operation with police. Accordingly, the application was denied.

FILE 922-013580

The applicant, aged 29 and unemployed, was at a club with her sister. Her sister went to the washroom and did not return. The applicant went to investigate and confronted the offender sexually assaulting her sister. The applicant's appearance on the scene gave her sister the opportunity to flee and get help. The offended demanded sexual acts from the applicant who refused. He punched her on the side of the face, slammed her against a wall and grazed her face with his hand. He then fled.

The applicant was treated in hospital for a swollen upper left lip with a small laceration, a loose front upper tooth, and a painful left jaw. The applicant attended a dental clinic and her dangling front tooth was removed. Several teeth required extraction, and teeth were added to her partial denture. The applicant complained that her jaw made clicking noises and was sensitive for two months following the assault. It still bothers her in cold weather. As well, she suffers anxiety and fear, and no longer goes out after dark. She continues to take prescribed medication to calm herself.

The offender was arrested and charged with sexual assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental expenses \$25.00; 7(1)(d) pain and suffering \$2,000.00; solicitor's fee \$250.00 and dis-

bursements \$160.00, for a total award of \$2,535.00.

FILE 922-011792

The applicant, aged 35, was punched in the mouth after being put in a cell in a Sudbury jail with the offender. Jail guards took the applicant to hospital.

A laceration to the applicant's lip required two stitches. Also, the applicant had one upper front tooth knocked out and another one cracked which later had to be removed. The applicant was advised of Section 25 of the Act with respect to replacing the tooth.

The applicant sued the Ministry of Correction Services and had received \$600.00 for pain and suffering prior to the Hearing. The Board took this into account when assessing the award.

The board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Sections 7(1)(d) pain and suffering \$400.00; 7(1)(f) travel expense to attend hearing \$46.70; solicitor's fee \$250.00 and disbursements \$122.20, for a total award of \$819.90.

FILE 922-013085

The applicant a 48-year-old Toronto parking lot attendant, was on duty when two men drove in the lot, parked and paid the flat rate of \$2.00. Ten minutes later, the two men returned and asked for a refund of their \$2.00. The applicant refused, and came out of his booth to explain, when one of the men hit him three times on the head.

The applicant was taken to hospital complaining of headaches. He was advised to use ice and pain killers, and was released. There was no sign of injury. He saw his family doctor five times over the next two months complaining of headaches. No treatment was prescribed. The applicant had problems at work because of the headaches and was fired. He experiences severe headaches about twice a month. The doctor's diagnosis is post-traumatic headaches.

Neither of the alleged offenders were charged.

The board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$750.00, for a total award of \$750.00.

FILE 922-013755

(Publication prohibited and heard in Camera)

The applicant, aged 19, a student and part-time clerk, was attending a show in Windsor with her brother at a hotel. The applicant left her table to use the washroom. The offender followed her into the washroom, threatened her with a knife, sexually assaulted her and robbed her.

The applicant was treated at hospital for contusions to both arms, left thumb, minor lacerations of the left fourth finger, and on the upper right back. She suffered severe trauma and required psychological counselling and attendance at a sexual assault clinic. The applicant still experiences nightmares and is very apprehensive.

The offender was convicted of robbery and sexual assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$138.33; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) travel expense to attend hearing \$65.25; solicitor's fee \$300.00 and disbursements \$182.00, for a total award of \$4,684.58.

FILE 922-013774

The applicant, a 25-year-old Toronto security guard, was in his apartment when his common-law wife's daughter rang the doorbell. He opened the door and the daughter and her boyfriend stepped in. They accused the applicant of striking his wife, and the daughter's boyfriend said he would kill the applicant if he did it again. He then punched the applicant several times, and fled.

The applicant sustained a fractured left cheekbone, facial bruises, and a cut over the left eyebrow. The cheekbone was surgically elevated and the cut over the left eyebrow was sutured. The applicant also experienced tenderness on the left side of his face for about five months. A scar was left over the eyebrow.

The alleged offender is still at large.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance and treatment \$43.20; 7(1)(b) net loss of income \$385.19; 7(1)(d) pain and suffering \$1,500.00 for a total award of \$1,928.39.

FILE 922-013815

The applicant is the mother of the victim.

In March of 1983 the victim, aged 10, was kidnapped and sexually assaulted.

The victim kept the incident to herself for six months before she told her family what had happened. Police were then notified. Over this period of time, the victim had nightmares, behavioural problems at home and at school, and did not want to go anywhere by herself.

The victim and her mother attended separate therapy sessions sponsored by the Children's Aid Society to deal with the emotional trauma. The victim still sees a social worker from the Society. The victim remains concerned about the offender's release, and may require future supportive therapy for the permanent emotional and psychological scars left upon her by the assault.

The offender was convicted of kidnapping and sexual assault, and is serving a six year sentence.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(f) travel expense to attend hearing \$25.00, and in accordance with Section 36(6) of the Trustee Act for pain and suffering, a lump sum award \$8,000.00, payable to the Accountant of the Supreme Court Ontario to the credit of the victim until her age of majority; solicitor's fee \$400.00 and disbursements \$233.60, for a total award of \$8,658.60.

FILE 922-014101

The applicant is the father of the deceased victim, aged four, who died in a house fire at Elmvale caused by arson.

The application is for funeral expenses and the applicant's wage loss, as well as his wife's wage loss.

The offender pleaded guilty to three counts of second degree murder, and was sentenced to life imprisonment without parole for 15 years.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) funeral expense \$1,800.00; 7(1)(b) applicant's loss of income \$1,632.00; 7(1)(f) loss of income and travel expense to attend hearing \$211.30, and to solicitor for fee \$200.00, and to applicant's wife for loss of income \$576.00, for a total award of \$4,419.30.

FILE 922-014134

The applicant, a 30-year-old receptionist-typist, was walking home along a Toronto street

and was injured by flying glass from a window broken by an escaping bank robber.

The applicant suffered a 1½ cm. laceration to the left cheek, and a deep star-shaped 2 cm. laceration to the upper left lip. The cheek laceration required 5 sutures, and the lip laceration required 10 sutures. The applicant was also treated for a bruised and tender left eye area. She suffered from anxiety, sleeplessness and migraine headaches for several weeks. The applicant has been left with some residual scarring on the upper lip.

The offender is unknown.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being robbery, and ordered compensation under Sections 7(1)(d) pain and suffering \$1,200.00; 7(1)(f) doctor's report \$200.00; solicitor's fee \$200.00 and for disbursements \$55.00, for a total award of \$1,655.00.

FILE 922-014163

The applicant, a 48-year-old disability pensioner from Oshawa, went to the assistance of a man who was being stabbed in a hotel. Unfortunately, he himself was then stabbed several times. Police were called by one of the hotel staff, and the applicant was taken to hospital.

The applicant was treated for three stab wounds to his chest requiring 5 sutures each, and a severe stab wound to his right arm. The applicant refused to be admitted to hospital for further treatment. It appears that the wound to his arm has caused him the most lasting problems, as his ability to extend his right wrist and fingers has been significantly reduced by the injury. The applicant claimed that this has hampered his ability to take on odd jobs for extra income above his disability pension.

The offender was convicted of assault and sentenced to three months in jail.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Section 7(1)(d) pain and suffering \$1,200.00, for a total award of \$1,200.00.

FILE 922-014099

The applicant is the son of the victim, a 64-year-old man suffering from senile dementia.

A man broke into the victim's home, struck him several times about the head and stole his

wallet, which contained about \$500.00. The victim was later discovered by his son and wife, but refused to go to hospital.

A doctor was summoned to make a house call. The victim had sustained two black eyes and a laceration over the right orbital area. These were treated conservatively. Five weeks later, the victim was found to be limping severely and was unable to move his right extremities. Two days after that, after the victim had been admitted to hospital for testing, a CAT scan revealed two subdural haematomae.

Upon arrival at another hospital, the victim underwent a brain operation to relieve pressure under the skull. The victim had an uneventful recovery. He was discharged two weeks after the operation and followed up for approximately one month. The applicant claimed that the victim's senile dementia had intensified since the assault, and that the victim's energy level had diminished, and that he now appears more withdrawn.

The offender was not apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Section 7(1)(a) ambulance \$22.00; 7(1)(f) power of attorney and doctor's report \$105.00, and to the victim for pain and suffering \$2,000.00, for a total award of \$2,127.00.

FILE 922-012613

The applicant, a 41-year-old refrigeration service technician from Kingston, was returning from a service call in his truck, when he noticed a woman being harassed by a man. He stopped to assist her, and once out of his truck, he was suddenly punched by someone he did not see. His next recollection is of trying to get up, and seeing a police car pull up beside him. No one else was around, and no arrests were made in this connection.

The applicant had suffered an extensive plate fracture of the floor of the right eye socket, but no surgery was undertaken. He also suffered a laceration to his lip, which was sutured. Medical monitoring was carried out by his doctor for diplopia on the right lateral gaze, and a disordered sense of smell in the right side of his nose. The problems eventually resolved themselves.

The applicant's dentures were broken. The applicant was advised of Section 25 of the Act, and upon notification that new dentures have

been made to the applicant's satisfaction, the Board will consider payment of the cost.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Section 7(1)(b) net loss of income \$162.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing and loss of income \$114.00, for a total award of \$2,276.00.

FILE 922-014773

(Heard in Camera)

The applicant, a 55-year-old housewife, went to spend the night at her daughter's home, because the latter had been having problems with her estranged common-law husband.

Shortly before 10:30 p.m. the common-law husband broke into the house. He had drenched himself with gasoline and sprayed the applicant and her daughter's baby with it as well. He flashed his lighter and his clothes burst into flames. He tried to grab the baby from the fleeing daughter, but the applicant intervened. The offender grabbed the applicant to him and her clothes caught fire. He then pushed her back so that she fell against a coffee table. The daughter managed to get away with her baby, and the offender fled. The applicant was able to roll on a carpet to put out the flames to her clothes.

The applicant sustained second degree burns to the right side of her abdomen at the waist, which were treated with cream and daily dressing, which healed in approximately four weeks. She is left with some scarring which becomes irritated when exposed to any heat. She also suffered considerable emotional trauma with anxiety, sleeplessness and nightmares.

At the time of the hearing, the trial of the alleged offender was still pending.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Section 7(1)(d) pain and suffering \$2,000.00; solicitor's fee \$250.00 and disbursements \$113.95, for a total award of \$2,399.75.

FILE 922-012565

The applicant, a 29-year-old Toronto cabinet maker, was at a restaurant. After refusing to fight with several intoxicated and obnoxious men, he and his party attempted to leave the restaurant.

The offender, one of the obnoxious men, threw a glass sugar dispenser at the applicant, which struck him on the face. The applicant fell to the ground unconscious, during which time the offender's son kicked the applicant several times on the head. The restaurant owner intervened and the assailants fled.

The applicant was treated for a comminuted nasal fracture and a slightly depressed fracture of the right zygomatic (cheekbone) arch. Over a period of two years, he underwent several operations to repair his nose, a septorhinoplasty with cartilage grafting, a realignment of nasal bones, total nasal reconstruction, cosmetic surgery and improvement of airway. The applicant continues to have breathing problems and is left with visible scarring and a depressed cheekbone.

The offender was convicted of assault and sentenced to 60 days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) medical expenses not covered by OHIP \$1,306.78; 7(1)(b) net loss of income (30 days) \$1,146.30; 7(1)(d) pain and suffering \$2,500.00, for a total award of \$4,953.08.

FILE 922-014504

(Heard in Camera)

The applicant is the mother of the victim.

The victim, aged 11, and his friend went to a swimming hole on their bicycles. When they arrived at the swimming hole they saw a man shooting frogs with a pellet gun. The man befriended the boys, and subsequently sexually assaulted them.

The man was charged with sexual assault and sentenced to 18 months in jail, plus two years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation to solicitor for fee \$250.00 and disbursements \$25.00, and for pain and suffering \$1,000.00 to be paid to the Accountant of the Supreme Court of Ontario to be held in trust until the victim attains age 18, for a total award of \$1,275.00.

FILE 922-013766

The applicant, a 45-year-old Chatham cab driver, after arriving at his passenger's destination, turned on the interior light to read the meter. The passenger reached into his pocket, pulled out a knife and slit the applicant's throat

and chin. The applicant dove out of the cab and ran across the street for help.

He was treated at hospital for a laceration to his chin. It was approximately 4 inches long, slightly curved and deep, requiring thorough cleansing under general anaesthetic. The laceration to his throat was approximately 1½ inches long, just over his larynx, and this was quite deep too. He required 23 sutures in all. He remained in hospital for one day. The lacerations constitute a cosmetic disability as well as creating difficulty in shaving. He also suffered post traumatic anxiety. Future cosmetic surgery will be performed on the scar area.

The offender was not apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and compensation was ordered under Sections 7(1)(a) for ambulance \$22.00; 7(1)(d) pain and suffering \$2,200.00; 7(1)(f) hospital records \$30.00; solicitor's disbursements \$87.80. A Variation of the Order under Section 25, was subsequently considered and the Board ordered under Section 7(1)(a) a further \$169.50 for Travel expenses, making a total award to date of \$2,509.30.

FILE 922-013633

The applicant, a 26-year-old St. Catharines tow motor operator, was being harassed at a stag party by a friend of the offender. This man called the applicant's brother a derogatory name and bumped into the applicant several times. When the applicant tried to settle him down, the offender jabbed the applicant in the ribs and then struck him on the right side of the face, knocking him to the floor.

The applicant had suffered a right subconjunctival haemorrhage and a blow-out eye socket (orbital) fracture. The fracture was repaired with a silastic implant. The applicant also suffered from double vision (diplopia). Although this condition has improved it continues to be a problem. He was off work for one month.

The offender was charged with assault causing bodily harm and sentenced to jail for 30 days.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) hospital expenses not covered by OHIP \$177.00; 7(1)(b) net loss of income \$586.62; 7(1)(d)

pain and suffering \$2,200.00; solicitor's fee \$300.00 and disbursements \$450.15, for a total award of \$3,713.77.

FILE 922-011614

The applicant, aged 32, was working at his key and engraving business in an Ottawa mall. He heard the sound of glass shattering, then saw the alleged offender run out of a jewelry store in the mall. The alleged offender ran by the applicant's kiosk and the applicant gave chase. When they arrived at some glass doors, the alleged offender turned and slammed the door on the applicant. The applicant raised his right arm to protect himself and was cut on the inside of his forearm.

The applicant was treated for a six-inch oval laceration on the inside of his right forearm. The vein was lacerated but there was no nerve, tendon, or muscle damage. The laceration was sutured and bandaged. The applicant returned to hospital three times in the next nine days, experiencing considerable pain due to healing complications. He was unable to use the arm for two months. It was completely healed five months later, but a scar remained. He was off work for two months.

The alleged offender was not apprehended.

The Board found that the application qualified under Section 5(b) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$15.00; 7(1)(b) net loss of income \$200.00; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) travel expense to attend hearing \$35.00, for a total award of \$1,250.00.

FILE 922-011952

The applicant, a 27-year-old Aurora receptionist, was attacked outside her home by her hatchet-wielding estranged husband.

The applicant suffered two scalp lacerations, both 2½ inches in length, a laceration on her neck about 2½ inches long, another laceration on her neck, and a laceration on her right upper eyelid about 2½ inches in length. There was a small bone chip in her scalp, and a chip fracture of the outer table of her head, as well as a possible chip fracture of the right bone around the eye. The lacerations were repaired and she remained in hospital for six days.

The applicant developed problems with eyelashes rubbing against her eye, and significant scar formation involving the right brow and the inner area of the right lower eyelid. Surgical attempts were made to remove the lashes,

which proved unsuccessful. There is no permanent injury to the applicant's head, nor any disability, but she is left with a noticeable cosmetic deficit around her right eye.

The offender was sentenced to seven years for attempted murder, and two years concurrent on other charges.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$510.70; 7(1)(d) pain and suffering \$2,800.00; 7(1)(f) travel expense to attend hearing \$21.50, for a total award of \$3,332.20.

FILE 922-013358

The applicant, a 26-year-old Welland sales coordinator, was playing hockey in a college league when he was struck on the right side of his face from behind with a hockey stick by an opposing player.

The applicant was taken to hospital and treated for a severe laceration above the right eye requiring 26 layered stitches. He recovered with no complications.

The offender pleaded guilty to assault causing bodily harm, and was given a conditional discharge plus seven months probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$900.00; solicitor's fee \$300.00 and disbursements \$144.85, for a total award of \$1,344.85.

FILE 922-014790

(Heard in Camera)

The applicant, an 85-year-old woman, was the victim of a sexual assault in her apartment. She suffered various types of sexual abuse and sustained bruising to her body and two cracked ribs.

The applicant was given antibiotics at hospital and released. She stayed with her daughter for two months during which time she required some professional nursing care and the help of her family. She was in extreme pain for a month and then gradually recovered. The applicant was compelled to move to a new apartment. Her social activities have been curtailed and she continues to suffer from nightmares and apprehension.

The offender was convicted and sentenced to seven years imprisonment.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dentures relined, drugs, lift chair, nursing care \$507.57; 7(1)(d) pain and suffering \$6,000.00; and to solicitor for disbursements \$126.00, for a total award of \$6,633.57.

FILE 922-013365

The applicant, an 18-year-old part-time Oshawa sales clerk, was into an argument with her former boyfriend at his home. He stabbed her three times with a butcher knife. The boyfriend's sister intervened and called an ambulance.

Surgery was required to repair damage done by a stab wound through the abdomen to the aorta, and a stab wound through the right breast to the diaphragm and liver. These wounds required an aortic graft and several sutures. A stab wound through her right calf was packed and dressed. The knife also penetrated her second lumbar vertebrae quite deeply.

The applicant required a binding up of ligamentous structures, which in turn, caused a chronic backache, which has significantly affected the applicant's lifestyle forcing her to give up recreational and sports activities, and impairing her ability to sleep at night. Medication has not helped, and corrective surgery is out of the question.

The offender was convicted of attempted murder and sentenced to six years in jail, with a recommendation for psychiatric treatment.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(a) waterbed for injured back \$488.00; 7(1)(b) net loss of income \$750.00; 7(1)(d) pain and suffering \$7,500.00; solicitor's fee \$175.00 and disbursements \$129.10, for a total award of \$9,042.10.

FILE 922-013572

The applicant a 37-year-old ice cream vendor from Markham was working on the street when a man stole a box of ice cream and ran off with it. The applicant pursued him and attempted to hold him for police. Two other men appeared and kicked the applicant on his head repeatedly rendering him unconscious. When the applicant regained consciousness he was on a church lawn, and was kicked again. He was able to get help but again lapsed into unconsciousness.

At hospital, the applicant was treated and released. He was later treated by his family doctor for bruises and abrasions to his scalp, head, right forehead, nose, right shoulder, left wrist and a painful neck. He suffered from extreme anxiety, loss of appetite, nightmares and loss of concentration and memory. He was able to continue working.

The offenders were convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$22.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing \$17.00; solicitor's fee \$300.00 and disbursements \$145.00, for a total award of \$2,484.50.

FILE 922-013515

With the consent of the applicant, the Board heard and considered this application solely on the documentary evidence which had been filed with it.

The applicant, a 47-year-old car salesman from Ottawa had been out for dinner. He was returning to his car, when he was jumped by two men who beat, kicked and robbed him. He was able to return to his motel, and went to hospital the next morning. He was treated for a minimally displaced fracture of his right forearm, an undisplaced fracture of the left wrist, and a recent right knee fracture.

The applicant did not report the incident to police. The Board was not satisfied with the applicant's affidavit setting forth the reasons for not doing so.

The Board found that the applicant failed to prove that he was injured as a result of a crime of violence as envisioned by Section 5 of the Act, and also considered Section 17(2) of the Act, in that the applicant failed to report promptly the offence to a law enforcement agency. The application was denied.

FILE 922-013101

The applicant, aged 22 and unemployed, from Waterloo, was attending a party at which he had been drinking, eating, and socializing over a period of several hours. A wrestling match had ensued outside between two men he had met briefly at the party.

The applicant went outside, leaned up against a fence, and suggested that the two men refrain from fighting. The fight continued for several minutes when one of the men sud-

denly jumped up from his wrestling match and struck the applicant across the mouth, forcing his neck back across the fence.

The applicant was treated for small lacerations on his lower lip, and sore neck muscles. 3½ teeth were knocked out, and he required new bridgework. He was given painkillers and released. Two days later, his family doctor ordered muscle relaxants, hot packs for his neck, and more pain killers. A month later, his doctor reported no residual neck stiffness. He also attended his dentist for repair work. Future dental work is deemed necessary, and the applicant was advised that an application for further compensation would be considered under the provisions of Section 25 of the Act.

The offender was convicted of common assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental work \$2,067.50; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) loss of income to attend hearing \$100.00; solicitor's fee \$450.00 and disbursements \$211.10, for a total award of \$5,328.60.

FILE 922-013128

The applicant a 46-year-old taxi-driver from Glenelg dropped off one of two male passengers, and then drove the other to his destination. Upon arrival, the second passenger was \$4.00 short of a \$6.75 fare. The applicant then requested security for the money he was owed and received the offender's birth certificate. The applicant was writing down this information when the offender grabbed the certificate and attacked him. The applicant was knocked to the ground and kicked in the area of his right eye.

The applicant was treated for a laceration of the right upper eye lid and swelling of the right upper eye. Both knees were abraded and bruised. The applicant had no vision out of his right eye. Although the vision in his left eye remained at 20/25, the prognosis was that as a result of the assault, the applicant would have no useful vision in his right eye due to permanent damage of his right optic nerve. The applicant was off work ten weeks.

The charges against the alleged offender were dismissed due to lack of positive identification.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$1,120.00; 7(1)(d) pain and

suffering \$4,000.00; solicitor's fee \$250.00 and disbursements \$244.10, for a total award of \$5,614.10.

FILE 922-013113

The applicant, a 37-year-old set-up lead hand from Hamilton was attending a stress seminar. He was waiting for an elevator in a University residence, when the offender appeared suddenly and grabbed him, screaming and shouting, and accusing the applicant of stealing his wallet. The offender held the applicant at knifepoint for half an hour, inflicting lacerations to his neck and stabbing him in the groin.

The applicant was treated for a knife wound to the leg. He received two sutures. He was also treated for lacerations to the neck, and was discharged with pain killers. The incident exacerbated a pre-existing blood pressure problem. Although outward physical recovery was complete with one month, attendant problems of agitation and depression continued until the blood pressure problem stabilized a year later. With the release of the offender from jail, the applicant again became very apprehensive.

The offender was convicted of assault and received a three month jail sentence.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) hospital records, travel expense to attend hearing, legal fees and telephone charges \$348.50, for a total award of \$2,348.50.

FILE 922-013498

The applicant, a 24-year-old Kitchener delivery man and his brother were having a beer in a hotel beverage room when a female came over and took one of the beers. The applicant questioned this action, and was struck from behind and knocked to the floor. He was then kicked several times before losing consciousness.

The applicant sustained bruises to the chest, a black eye, and a fractured jaw. The fractured jaw required wiring for five weeks, plus further adjustments made with elastic traction. The applicant was off work for one week. He will require additional dental work and was advised that an application for further compensation would be considered under the provisions of Section 25 of the Act.

No offender was apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(a) net dental expense \$46.00; 7(1)(b) net loss of income \$272.09; 7(1)(d) pain and suffering \$1,800.00; 7(1)(f) travel expense to attend hearing \$45.78; solicitor's fee \$275.00 and disbursements \$235.78. An additional application was received and considered under Section 25 of the Act, and compensation was ordered under Section 7(1)(f) for reimbursement of cost for dental treatment \$300.00, for a total award to date of \$2,974.65.

FILE 922-012127

The applicant, a 53-year-old Hamilton man, unemployed and on a disability pension, was pushed in front of an oncoming bus. His injuries were extensive. His right leg was crushed, with most of the skin and muscle torn from the lower thigh, knee and upper shin and calf. His ankle was broken as well.

The applicant was in hospital for six weeks, and received very painful skin grafting over that period of time. Eight months later, he returned to hospital for intensive in-hospital physiotherapy. The applicant continues to have problems with severe pain, and this was further aggravated because he cannot receive pain medication, due to the medication he has to take for his heart. The ankle swells if walked on for any distance, and the applicant has difficulty going upstairs, or doing anything for any length of time which requires extensive use of the right leg and ankle. Scarring to the leg is extreme.

The offender was acquitted of aggravated assault. The issue before the jury was the question of whether or not the push and the applicant's injuries were beyond a reasonable doubt intended. The issue before this Board is only to a balance of probabilities, and thus it found the applicant to be an innocent victim of a crime of violence.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Section 7(1)(d) pain and suffering \$8,000.00; solicitor's fee \$500.00 and disbursements \$548.45, for a total award of \$9,048.45.

FILE 200-6596

The applicant, aged 28, unemployed and a Windsor resident, was seated in the waiting

room of his doctor's office when two unknown males assaulted and robbed him. They stole his gold chain and a watch.

The applicant was treated by his doctor for a swollen left temporal area laceration of the left upper lip, requiring nine sutures, and neck pain and headaches.

The two offenders pleaded guilty to assault causing bodily harm.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$750.00; and solicitor's fee \$150.00 and disbursements \$85.00, for a total award of \$985.00.

FILE 922-012242

The applicant, a 22-year-old Emeryville labourer, was at a motorcycle club headquarters with several others, playing pool and drinking. The alleged offender entered the clubhouse and went on a shooting and stabbing rampage, killing and/or wounding almost everyone present.

The applicant sustained a gunshot injury with a comminuted fracture involving the left hip. Two bullets had lodged within his left thigh. He had also received stab wounds in the left back area. He underwent emergency surgery, and a side-plate was then transfixed with screws of varying lengths. After discharge from hospital, the applicant continued to experience extreme pain from the left hip fracture.

About 2½ months later, the applicant underwent surgery to renail and plate the bone grafting. He will be left with some permanent disability due to left leg shortening, and some deformity to the left arm and shoulder, which had been dislocated.

The Board found that the applicant's behaviour did not contribute to his injuries. There was no prosecution as the alleged offender escaped the scene, and was shot by police in a shootout in an unrelated incident eight months later.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,300.00; 7(1)(f) travel expense to attend hearing \$50.00; solicitor's fee \$50.00 and disbursements \$534.00, for a total award of \$2,934.00.

FILE 922-012264

The applicant, a 37-year-old machine operator from Niagara Falls, was refereeing a soccer game. The offender, a member of one of the teams, committed a serious foul against one of his opponents. The applicant stopped play, and threatened to eject the offender from the game. After a verbal threat against the applicant, the offender then poked the applicant in the eye and punched him on the head and neck.

The applicant was taken to hospital where it was feared that he might lose the vision in his right eye. He had also suffered a cracked vertebra in the neck, and chipped teeth when his teeth crunched against the whistle in the mouth at the impact of the blow. Doctors were able to save the sight of his eye, and administered the required treatment to his neck. His chipped teeth have been crowned, although further dental treatment may be needed in the future.

The applicant was off work for approximately one month, and was ordered to avoid regular sports for about six months. The applicant was advised of Section 25 of the Act with regard to future dental work.

The offender was charged with assault causing bodily harm and sentenced to one day in jail and a fine.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(b) net loss of income \$1,427.41; 7(1)(d) pain and suffering \$3,000.00; 7(1)(f) doctor's report \$175.00; solicitor's fee \$350.00 and disbursements \$189.05, for a total award of \$5,162.46.

FILE 922-012629

The applicant, a 24-year-old Hamilton police officer was doing a routine check at a bar when he was attacked by the offender, who hit him in the right eye, breaking his glasses. The offender also grabbed the applicant's testicles and delivered a blow to the inside of the applicant's right knee. Fellow officers arrived, arrested the offender and took the applicant to hospital.

The most serious injury suffered by the applicant was to his right knee. This ligamentous injury resulted in an anterior cruciate (cross-shaped) deficient right knee. The applicant has to wear a brace on the knee and may require surgery in the future. He went to see a physiotherapist twice and a chiropractor

once who advised the applicant to wear a knee brace whenever he participated in sports. The applicant was off work for nearly four months, but his loss of income was covered by The Workers' Compensation Board.

The offender was convicted of assaulting a peace officer, and sentenced to 80 days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing \$35.00; and solicitor's fee \$300.00 and disbursements \$316.25, for a total award of \$2,651.25.

FILE 922-014260

The applicant, a 64-year-old Ottawa cleaner, was walking to his vehicle through a parking lot when he was confronted and struck across the head and face several times with a gun, and robbed.

The applicant sustained deep lacerations to his head which required 40 sutures. He also received a laceration to his upper lip and lost two teeth. He was kept in hospital one day and was discharged with pain-killers. He was absent from work two months with severe headaches and nervous anxiety.

No one has ever been apprehended.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) travel for treatment \$26.00; 7(1)(d) pain and suffering \$2,000.00 for a total award of \$2,026.00.

FILE 922-013552

(Heard in Camera)

The applicant is the mother of the victim, who was kidnapped and sexually assaulted.

The victim's physical injuries were minor, but she was withdrawn, depressed and angry for about three months. She had nightmares and her schooling deteriorated. The victim and her mother attended separate therapy sessions for about a year after the incident to help deal with the emotional trauma. The family moved to another city and the victim made a fresh start at a new school. The victim continues to attend a therapy activity group and to see a social worker, and may need future supportive therapy.

The offender was convicted of kidnapping and sexual assault and given a six year sentence.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(f) travel expense to hearing \$76.00, and in accordance with Section 36(6) of the Trustee Act \$8,000.00, payable to the Accountant of the Supreme Court of Ontario to the credit of the victim until age 18 when she is to be paid one half of the amount, and the remainder to be paid when she is age 21, and to solicitor for fee \$400.00 and disbursements \$458.16, for a total award of \$8,934.16

FILE 922-013393

The applicant, a 20-year-old waiter from Windsor, was assaulted in a tavern when he asked a girl at a table next to his to dance. One of the men at the girl's table objected, and he punched the applicant in the mouth, knocking him to the floor.

The applicant sustained a laceration to his upper lip and another laceration to his gum, both of which were sutured. In addition, he required emergency dental surgery in order to stabilize four damaged teeth. The surgery was not a success, and the applicant will require two teeth extracted, a four tooth bridge inserted and possibly root canal work. The applicant lost 10-12 hours of work. He was advised of Section 25 of the Act, and that the Board will pay up to a maximum of \$1,800.00 when the required dental work is completed.

The offender was convicted of assault and fined \$375.00.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) net dental expenses \$252.40; 7(1)(b) loss of income \$165.00; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) dental reports \$100.00, for a total award of \$1,517.40.

FILE 922-014171

The Board heard the application based on documentary evidence filed with it.

The applicant, a 26-year-old security officer was kicked in the groin during the course of apprehending the offender, who had just broken a window.

The applicant was examined at hospital for a contusion with swelling to the testicles, which was very painful. The applicant was absent from work for five days. His loss of wages were covered by The Workers' Compensation Board.

The offender was convicted of assault and sentenced to 60 days in jail, and 15 months probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$600.00, for a total award of \$600.00.

FILE 922-010444

The applicant, a 29-year-old hotel employee from Niagara and an acquaintance were visiting the residence of a friend. There were five or six people drinking, but the applicant claims he did not know anyone else in attendance. The applicant and his acquaintance left the residence a few hours later with one of the other people. While walking down the driveway to their car, someone shot at them, and all three were struck by shotgun pellets.

The applicant was treated in hospital for gunshot wounds to the left arm, left side of the chest, and stomach. The pellets were surgically removed, and numerous stitches were required.

The applicant and his associates refused to assist the police in their investigation, and two of the three signed statements indicating their desire that the matter not be pursued further. The police were forced to close the investigation.

The Board concluded that the applicant displayed a total lack of co-operation with the police and bearing in mind the responsibility placed on it under Section 17(2) of the Act, denied the application.

FILE 922-010057

The applicant, a 35-year-old systems analyst was assaulted by several youths outside his Toronto home. He was struck on the left arm with a baseball bat.

The applicant received treatment for a comminuted fracture of the left arm which required open reduction and internal fixation, followed by a cast for one month. The applicant experienced pain and discomfort of the arm, until the internal fixation and plate were removed 14 months later. He suffered from depression, insomnia and emotional trauma for a lengthy period of time.

Five offenders were charged with wounding.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a)

amount above OHIP \$76.23; 7(1)(b) net loss of income \$408.15; 7(1)(d) pain and suffering \$6,000.00; solicitor's fee \$400.00 and disbursements \$397.00, for a total award of \$7,281.38.

FILE 922-011003

The applicant, a 71-year-old Toronto physician, went outside his home to investigate a car that had come to rest on his front lawn.

The driver of the car fled, and the applicant gave chase and was momentarily able to detain the driver. The driver escaped the applicant's grasp as a police cruiser that had been following the vehicle arrived. The applicant gave chase again and, in doing so, ruptured his achilles tendon and fell to the ground.

The applicant underwent surgery to repair the tendon, and was in a cast for approximately seven weeks. It was three to four months before recovery was complete.

The offender was convicted of impaired driving.

The Board found that the application qualified under Section 5(b) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$4,178.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) other pecuniary loss \$29.40; solicitor's fee \$400.00, and disbursements \$31.25, for a total award of \$6,638.65.

FILE 922-012634

The applicant aged 19, unemployed, was assaulted outside a Windsor tavern. The assault was linked to an argument inside the tavern between the offender, the applicant and his friends. The applicant, on leaving the tavern encountered the offender in the parking lot, and confronted him. The offender suddenly struck the applicant across the head with a lead pipe, knocking him unconscious. He then kicked the applicant in the face.

The applicant sustained a laceration to his left ear and nose, both of which were sutured. Later that same day, the applicant underwent open reduction surgery to repair a fracture to his nose. His nose was packed for two days and placed in a cast for four days. His injuries healed within seven weeks. He still experiences some sinus problems.

The Board found that the applicant's behaviour in deliberately approaching the offender a second time was a contributing factor to his injuries, and therefore ordered a reduced

amount under pain and suffering, invoking Section 17(1) of the Act.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(d) pain and suffering \$800.00; and solicitor's fee \$250.00 and disbursements \$206.00, for a total award of \$1,256.00.

FILE 922-012292

The applicant, aged 25, was visited at her residence by her estranged husband. After an argument, the husband fired six shots, three of which penetrated the applicant's right shoulder/chest area. The applicant was also struck several times on the head with the gun causing severe lacerations to the skull.

At hospital, the applicant's shoulder wounds were cleansed, packed and bandaged. No major organs were hit by the bullets. Sutures were required for the skull lacerations. She received pain killers and left the hospital. Her doctor reported that there would be temporary shoulder immobility, but no permanent damage. The applicant returned to her doctor several times complaining of severe pain, but the doctor concluded she was over-reacting.

The alleged offender was charged with attempted murder. However, at trial, the applicant changed her story, and the charges were dismissed.

With consideration to its obligation under Section 17(2) of the Act, the Board concluded that the charge of alleged attempted murder was a serious matter, and that the applicant refused reasonable co-operation with a law enforcement agency. Therefore, the application was denied.

FILE 922-012909

The applicant, a 35-year-old government employee resident in Toronto was walking with his bike along a sidewalk, when he was accosted by the offender who suddenly jumped out of the bushes. The offender struck the applicant on the face with a brick, and knocked him to the ground. The applicant got up, and realizing the offender was attempting a second assault, fled on foot.

The applicant was treated for a lacerated lip, a bruised cheek, and a laceration to the top of his scalp and forehead, which were sutured. The sutures were removed five days later. He is left with a 1½ inch scar above his right eye, and he experienced considerable trauma.

The offender was convicted of assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,500.00, for a total award of \$1,500.00.

FILE 922-010596

The applicant, an 18-year-old steel worker, was assaulted at a pool hall by two men he had defeated in a pool game. He was punched and stabbed in the scuffle.

The applicant was treated for a stab wound to the abdomen and lacerations to the right chest and behind the left ear. He underwent an emergency abdominal operation during which three minor perforations of the small bowel were sutured. Four days after being discharged from hospital, he returned by ambulance and was given a prescription for post-operative abdominal pain. The applicant has permanent scars on his chest and abdomen from the wounds and surgery. He remains anxious for his safety as the offenders were never apprehended. The applicant was off work for 13 weeks.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(a) hospital expenses \$20.00; 7(1)(b) net loss of income \$650.00; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) travel expense to attend hearing \$54.50, for a total award of \$3,224.50.

FILE 200-9876

The applicant, aged 34 and employed in Toronto as a policy analyst was returning to her apartment building when a partially hooded man attacked her near a side entrance. He grabbed her around the neck and told her not to scream, then threw her to the ground, exerting considerable force on the jaw and neck. The applicant screamed out, the man released her, apologized profusely and stated something to the effect that he had thought she was his girlfriend.

The applicant was treated by a chiropractor for an upper back sprain and a strained hip. She complained of trauma, shock, and headaches and pain on the right side of her head. After reporting jaw stiffness and locking, she was fitted with a dental plate to relieve joint spasm. She continued chiropractic treatment in subsequent years, and underwent a natural

healing treatment, but back and neck pains persist.

The applicant anticipates further dental work in the future. Both the plate and the jaw will need readjustment. She was advised of Section 25 of the Act should she require further treatment as a direct result of this incident.

The offender was not apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Sections 7(1)(a) OHIP differential and dental plate \$202.00; 7(1)(d) pain and suffering \$1,500.00; 7(1)(f) chiropractor's reports \$150.00, for a total award of \$1,852.00.

FILE 922-011476

The applicant, a 22-year-old attendant at a rest home, was punched in the face several times by a psychiatric resident after she had told him he would have to wait before she brought him a cigarette.

The applicant was treated for a displaced fracture of the alveolar structure (a segment of the upper jawbone above the mouth where the dental roots are located). There was also a severe displacement of the left upper central and lateral incisors. This problem was corrected with the application of an arch bar and interdental fixations. Eight weeks later, the arch bar was removed and the applicant underwent root canal therapy. Discolouration and weakness still persist, which will necessitate the construction of 'crowns' for the two incisors. The applicant also suffered fearfulness, anxiety and stress. Tranquilizers and anti-depressants were prescribed, but she remains fearful of "loud, boisterous men". She was off work for eight months.

The claim for loss of income will not be considered by the Board until the applicant has first applied to The Workers' Compensation Board.

The offender was convicted of assault causing bodily harm, and received a suspended sentence and three years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$2,200.00; solicitor's fee \$200.00 and disbursements \$44.00, for a total award of \$2,444.00.

FILE 922-010749

The applicant, a 30-year-old housewife living in Sault St. Marie awoke to find her common-law husband loading a shotgun. He ordered her and her two children from the house. As they ran from the house across the lawn, he opened fire with the shotgun, killing the applicant's six year old daughter, seriously wounding her eight year old son (File 922-010750) and wounding the applicant in her back and buttocks.

The alleged offender, who had a history of psychiatric problems, then committed suicide.

The applicant was treated for minor pellet wounds to her back and buttocks. They were dressed and bandaged, but no surgery was required. A few days later, the pellets became increasingly uncomfortable, and an unsuccessful attempt was made to remove them. The pellets no longer cause discomfort, but they have left some scarring on the buttocks. Although the applicant did not seek psychiatric or psychological help, the Board recognized the emotional trauma she suffered as being far more severe than her physical injuries.

The Board found the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and ordered compensation under Sections 7(1)(d) pain and suffering \$5,000.00; 7(1)(f) travel expense to attend hearing \$239.75; and solicitor's fee \$400.00, for a total award of \$5,639.75.

FILE 922-010750

The applicant is the mother of the victim.

On November 22, 1982, the victim, a boy aged 8, sustained gunshot wounds to his back, neck and head when running from the alleged offender.

The victim sustained irreparable damage to the spinal cord which left him a quadriplegic, except for good use of his right hand. He has undergone spinal fusion to correct paralytic scoliosis of his back (spine curvature). Although confined to a wheelchair, he attends regular classes in Toronto. In addition to home therapy, the victim requires daily medication and bi-monthly visits with a child psychiatrist because of emotional problems.

The alleged offender committed suicide.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Section 22 of the Act (costs) drugs, air fare, hotel, car and truck

rental, gas, necessities and miscellaneous expenses \$3,961.98, solicitor's fee \$600.00 and disbursements \$110.00; a maximum lump sum payment for pain and suffering \$15,000.00, payable to the victim pursuant to Section 36(6) of the Trustee Act when he reaches the age of majority, for a total award of \$19,671.98.

FILE 922-012335

The applicant, a 35-year-old inmate at Millhaven Institution, walked into the yard at dinnertime and felt several thuds on his back. When he returned to his cell, he realized that his back was bleeding. He laid on his bed and dozed off. He awakened with the realization that there were several men in his cell. He felt a slash to his left chest and to protect himself, raised his left arm over his face. He received a superficial laceration to his left forearm. The men left.

The applicant was admitted to hospital with a 1 cm. stab wound to the left chest which had punctured his lung, a slash wound to the right lower back, and a superficial laceration in the left forearm. The wounds were cleansed and sutured, and the applicant was discharged from hospital nine days later. His doctor reported that he suffers from anxiety, and depression as a result of the attack.

The applicant does not know who stabbed him, but wished the police investigation not to proceed further. Police involvement ended due to his lack of interest. The Board considered its obligation under Section 17(2) of the Act, and concluded that the applicant was not significantly unreasonable in declining to aid the police investigation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,200.00, for a total award of \$1,200.00.

FILE 922-012691

The applicant is the mother of the deceased victim.

The victim, a 17-year-old labourer, was at a motorcycle club headquarters with several others, drinking and playing pool. The alleged offender entered the clubhouse and went on a shooting and stabbing rampage, killing and/or wounding virtually everyone present. The victim was shot dead.

The claim is for funeral expenses.

There was no prosecution in this matter as the alleged offender escaped the scene, and was shot dead by police in a shootout eight months later.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being murder, and ordered compensation under Sections 7(1)(a) funeral expense \$2,200.00; 7(1)(f) travel expense to attend hearing \$135.00, and to solicitor for fee \$250.00 and disbursements \$91.50, for a total award of \$2,676.50.

FILE 200-9725

The applicant, a 45-year-old waitress and machinist claimed she was injured. Two days later she appeared at the hospital with a number of injuries which suggested an assault.

The applicant told the Board that she had no memory of events until she came to in her apartment. She found herself sitting in a chair in her apartment fully clothed and injured, but there was no sign of a struggle.

The applicant remained in hospital for two weeks, and a number of unusual injuries were noted, mostly on her left side. These were blunt trauma injuries to her left arm and thigh, and a number of burn type skin injuries to the left side of her face, body and legs. There was some nerve damage to the left arm which required prolonged nerve block treatments, and the applicant has been left with a 25% loss of function disability to her left arm and hand.

After an extensive police investigation, no evidence of an assault was uncovered. On the evening the applicant alleges the assault took place, the applicant was intoxicated. It seems possible that the applicant could have fallen down a sixteen step flight of stairs outside her apartment door, and come to rest against a steam radiator at the foot of the stairs. This would be consistent with the injuries received.

The Board was unable to find that a crime of violence, as described in Section 5 of the Act, had occurred, and therefore the application was denied.

FILE 922-012923

The applicant, a 28-year-old Haliburton police officer and member of the Tactics and Rescue Unit, was shot while attempting to enter a cottage to apprehend the offender, who had escaped from a mental health centre and who was holed up in the cottage.

The applicant was taken to hospital and treated for two gunshot wounds. He underwent surgery for excision of a wound of entry through the lower abdomen, which exited through the left buttock, and for excision of a scalp wound. One week later, sutures were removed, and it was noted that his scalp wound had healed. The applicant was off work for about a month. His loss of income was covered by The Workers' Compensation Board.

The offender is at an institution for the criminally insane.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Section 7(1)(d) pain and suffering \$2,100.00, for a total award of \$2,100.00.

FILE 922-013089

The applicant is the mother of the victim. Her son, aged 10, found a device resembling a firecracker on a street near his home. He brought it to his friends, and they ignited it while hiding 15 feet away behind a shed. Apparently, the boy was not completely shielded from the explosion which occurred. A piece of metal casing from what was later discovered to be a home-made bomb lodged in his left shoulder.

The boy was initially in hospital two days for the repair of the laceration to his left shoulder area. He underwent twice-weekly physiotherapy for 17 months for nerve damage in his left arm. He was seen medically every three months for three years. A year-and-a-half after his injury, he underwent surgery on his left hand to bypass nerve damage and to restore complete control to his fingers. He made a good recovery, but his left hand is significantly weaker than his right hand, and he lacks full control of his thumb.

Two juveniles were convicted of possession of explosives without lawful excuse.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance and travel for treatment \$229.00; 7(1)(f) travel expense to attend hearing \$47.04, to doctor for medical report \$150.00, and to The Accountant of the Supreme Court of Ontario \$5,000.00 for pain and suffering to be held until the victim reaches the age of 18, for a total award of \$5,426.04.

FILE 922-011444

The applicant, a 20-year-old unemployed male living in Capreol, was aboard a motorcycle proceeding home from a party, and ran head-on into a parked van.

The applicant received multiple injuries. A blood clot on the brain requiring extensive surgery, a broken right wrist, a broken right leg, and mental disability.

The applicant was charged under The Highway Traffic Act with having no licence plate and no 'M' endorsement on his private licence, and with careless driving, as well as having no insurance. The first two charges were withdrawn, and he was found guilty on the last two counts and was fined \$103.00 and \$503.00 respectively.

The Board could find no evidence of any person attempting or committing an act of violence or assault against the applicant as required under Section 5(a) of the Act. Accordingly, the Board denied the application, but did pay costs under Section 22 to solicitor for medical reports, subpoena and fee \$511.70, and in a subsequent order for costs \$81.00 for a medical report, for a total amount of \$592.70.

FILE 922-011455

The applicant, a 43-year-old store security guard in Kingston, observed a male and female shoplifting while she was on duty and she followed them outside. In apprehending them, a scuffle ensued and the applicant was kneed and punched several times. As well her hair was pulled, and she injured her back.

The applicant was treated for abrasions to her nose, left wrist, and right breast, bruising to her lower abdominal area and groin, and a lower back injury. The bruising to her lower abdominal area and groin became complicated with internal hematomas and direct and indirect hernias. This area was quite painful. She also experienced urgency incontinence and loss of urine due to the hernias. About three months after the incident, the hernias were surgically repaired. She developed a denervation pain syndrome in the groin. Doctors were unable to treat it or the chronic strain to the lumbar sacral region of her back successfully with surgery. The applicant was unable to work, and received a disability pension from The Workers' Compensation Board. Because of the back problems, she found it necessary to have someone accompany her when she drives a car.

The offender was charged with possession of stolen goods and assault, and sentenced to 75 days in jail.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$3,000.00; 7(1)(f) travel expense to attend hearing \$70.00, for a total award of \$3,070.00.

FILE 922-012556

The applicant is the sister of the deceased victim, the mother of the minor and his sister. The applicant and her husband were awarded custody of the minors.

The minor's mother was murdered by her estranged husband, father of the minor.

The applicant claimed expenses incurred and pecuniary loss as a result of this occurrence, and a monthly award for the support of the minor.

The offender was found not guilty of the charge of murder by reason of insanity.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) travel for treatment \$463.00; and solicitor's fee \$175.00, and continuing periodic payments to the applicant in the amount of \$200.00 per month to be used on behalf of the minor until he reaches the age of majority, subject to annual review.

FILE 200-7568

The applicant, a 23-year-old saw mill worker in Killaloe, had left a local hotel and was walking home along the highway, when a car stopped beside him. The applicant thought the car had stopped to offer him a ride. Instead, three males jumped from the car and assaulted him. He was left bleeding and unconscious on the highway, where he was later found by a friend.

The applicant was hospitalized for three days with extensive bruising and a fractured pelvis. He was on crutches for approximately three months, and was not fully recovered until a month after that. The applicant lost 13 weeks of work, but received benefits for 10 of those weeks. The Board covered the net loss.

The offenders were never apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(b) loss of income \$887.50;

7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing \$40.00, for a total award of \$2,927.50.

FILE 922-012501

The applicant, a 17-year-old student, was on a Toronto street outside the house of a friend where he had attended a party. He was intoxicated and got into a fight with the offender over a mutual girlfriend. The offender punched the applicant on the head once. The applicant fell backwards, striking his head on the roadway, and was unconscious for a brief period, after which he remained dazed.

At hospital, the applicant was first classified as drunk and was discharged. After persistent disorientation, agitation and drowsiness he was taken back to hospital where he remained for 9 days.

A CAT scan was performed, and he was found to have a small extradural haematoma, a right frontal contusion, and a fractured skull. A pressure measuring device was inserted in his head. About a week later, the drowsiness and disorientation had cleared up and the haematoma had re-absorbed spontaneously. He continued to be bothered by double vision, a tendency to imbalance, memory loss, loss of sense of smell, combativeness, a reduction in intellectual capacity, and a tendency to disinhibition. Two years later, he continued to suffer from emotional lability a reduction in intellectual capacity and a lack of motor coordination. He remains short-tempered.

Due to the effect of his injuries, the applicant dropped out of school and gave up plans to go on to university. He now works as an apprentice carpenter. The applicant's mother lost six weeks loss of income.

The offender pleaded guilty to assault and was sentenced to 30 days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$8,000.00; 7(1)(f) net loss of income to attend hearing \$30.00, and to applicant's mother for loss of income during applicant's convalescence \$1,200.00, for a total award of \$9,230.00.

FILE 922-012610

The applicant, aged 20 and unemployed, encountered the offender in his Toronto apartment building hallway. The offender accused him of stealing his girlfriend's stereo. A verbal

argument ensued and both men engaged in some punching and shoving.

The dispute between the two soon cooled, and they went outside the building and had a few beers. The offender invited the applicant to his girlfriend's apartment for some more drinking. At the entrance-way of the girlfriend's apartment building, the offender pulled out a knife and stabbed the applicant twice in the chest. The applicant turned to leave and was stabbed three more times. The offender then got into his car and drove it at the applicant, knocking him down. He then backed the car over the applicant once and forward once.

The applicant was taken to hospital and the five stab wounds were sutured. There was no damage to internal organs. He also suffered abrasions and contusions to his face and chest, and soft tissue injuries to the lower left abdomen and upper left thigh, where he had been run over by the car. The applicant also complained of left knee and lower back pain. There was no documentation to support any knee injury, and x-rays of the spine were normal. His stab wounds healed with some scarring.

The offender pleaded guilty to wounding and received 20 months in jail.

After careful consideration to Section 17(1) of the Act, it was the view of the Board that the applicant did not use good judgment in agreeing to go drinking and socializing with a man who had already exhibited violent behaviour. However, the violence and unprovoked attack was out of all proportion to what any reasonable person could foresee.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,000.00; solicitor's fee \$400.00 and disbursements \$123.80, for a total award of \$1,523.80.

FILE 922-011089

The application was filed after the one year limitation period. The Board granted an extension.

The applicant, a 27-year-old auto body mechanic, was in bed with his girlfriend when his girlfriend's estranged husband (the offender) burst into the bedroom in a rage. The offender threatened to kill the applicant, and smashed a large ceramic horse against the end of the bed. One large piece hit the applicant on the right side of his chest and his left thumb. When the applicant tried to get out

of the bed, the offender hit him with a broken piece of ceramic under the left arm on the armpit. The offender then threatened the applicant with a broken bottle and a butcher knife. The applicant eventually escaped through a window and waited in a school yard for police to arrive. The offender had assaulted his wife previously, and was under a restraining order to stay away from her and the matrimonial home.

The applicant was treated for a laceration to the left thumb, which required four sutures, a 2½ inch chest laceration, which required ten sutures, a laceration to his left armpit which required fourteen sutures as well as sutures to the deep bleeding vessels of that wound. The wound to the armpit was life-threatening because of its depth and the considerable amount of bleeding. His chest laceration became infected and required further treatment. The applicant was released from hospital after four days, but returned as an outpatient for the next three weeks to have his wounds examined and bandages changed. The applicant was weak and sore for about six weeks. He could not move his thumb for about a month. His thumb still gives him problems with pain after use and is numb and painful in cold weather. The applicant was off work for about six weeks.

The offender was charged with attempted murder, but pleaded guilty to wounding and was sentenced to eighteen months imprisonment.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$2,400.00; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctors' reports and travel expense to attend hearing \$151.80; solicitor's fee \$300.00, and for hospital bills \$68.00, for a total award of \$6,919.80.

FILE 922-012028

The applicant, an 18-year-old University freshman from Kingston, was walking along the street with some friends when he was accosted and challenged to fight by a stranger who was intoxicated. The applicant refused. The stranger punched the applicant on the nose.

The applicant suffered a fractured, bleeding and swollen nose. Because of the swelling, a reduction was not carried out until six days after the incident. The applicant suffered physical discomfort for about two weeks,

which interfered with his ability to study. The applicant had some apprehension about meeting the offender again. It was two months before he was fully recovered.

The offender was convicted of assault causing bodily harm, and sentenced to 45 days in jail, plus two years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$1,000; 7(1)(f) travel expense to attend hearing \$17.50, for a total award of \$1,017.50.

FILE 922-011803

The applicant is the mother of the victim.

The victim, a girl aged 14, was sexually assaulted nine times over the course of the summer months.

As a result, it was necessary for her to undergo a therapeutic abortion. Subsequent to the above procedure, the victim had a series of counselling sessions. She is currently doing well in school holding down a part-time job and adjusting well socially.

The offender was charged with sexual assault, but died prior to sentencing.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being indecent assault on a female, and ordered compensation under Sections 7(1)(a) travel for treatment \$88.00; 7(1)(f) travel expense \$60.00, and to The Accountant of the Supreme Court of Ontario, for pain and suffering \$2,500.00, to be held in trust for the victim until she is 21 years of age; and solicitor's fee \$300.00 and disbursements \$189.50, for a total award of \$3,137.50.

FILE 922-012908

The applicant, a 38-year-old Toronto gas station attendant, was at work in the gas station office when the offender entered and requested he make change for him. The applicant refused. The offender tripped him, causing him to fall, and began assaulting him. The offender was joined by two of his friends who pinned the applicant's hand down, as the offender repeatedly kicked and punched the applicant about the face and upper body.

The applicant was treated for facial contusions and lacerations, a bruised right hand, a swollen left forehead, a neck spasm, and a swollen nose. Three sutures were applied to the left eyebrow. The applicant's neck muscles were

tender, and movement of his neck was limited to 25% of normal. Over the next seven weeks, the applicant attended his doctor on eight occasions complaining of facial pain, most notably caused by exposure to cold. He also complained of blurred vision, but tests proved negative. He was off work for seven weeks.

The offender was convicted of assault causing bodily harm.

The applicant did not think he was eligible for unemployment benefits and OHIP coverage. The Board discovered that the applicant was indeed eligible for these forms of assistance, and he was encouraged to obtain such benefits. If unsuccessful, he was advised that an application for further compensation would be considered under the provisions of Section 25 of the Act.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,200.00; solicitor's fee \$250.00 and disbursements \$240.00, for a total award of \$1,690.00.

FILE 922-011746

The applicant, a 30-year-old inmate at Milhaven Institution, was sleeping in his cell when he was awakened by an unknown person entering his cell. The offender stabbed the applicant in the abdomen and fled.

The applicant suffered severe blood loss from the wound to his abdomen. He underwent abdominal surgery to repair his small intestine and to stop the bleeding. The following day, bleeding was still present, and surgery was performed to relieve it. He underwent a stormy post-operative course, which was further complicated by the development of an intra-abdominal abscess. Further abdominal surgery and drainage of the abscess was carried out six weeks after the initial injury.

The applicant remained in intensive care for a month, and was transferred to the health care unit seven days later. Although recovery was expected within six months, he was left with a small hernia and has a noticeable scar. He must also be cautious when lifting heavy objects.

The offender is unknown due to the fact that the applicant, a diabetic, is legally blind without glasses, and was not wearing his glasses at the time of the assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered

compensation under Sections 7(1)(b) loss of income \$250.00; 7(1)(d) pain and suffering \$1,500.00; solicitor's fee \$300.00 and disbursements \$73.00, for a total award of \$2,123.00.

FILE 922-014209

(Heard in Camera)

The applicant, in this case a Children's Aid Society, discovered after a series of investigations and visits that the victim, aged 5, was being sexually abused by the offender, a former boyfriend of the victim's older sister and a boarder and part-time babysitter in the home where the victim lived. The offender had burned the victim's thumb, which is now scarred, and had told her he would burn her hand if she told anyone. The victim claimed that the offender had also tried to smother her.

The victim has had nightmares and was fearful the offender would return. She is seeing a psychiatrist.

The offender was charged with sexual assault, was convicted of common assault and sentenced to four months in jail and three months probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation for pain and suffering, payable to the Accountant of the Supreme Court of Ontario under Section 36(6) of The Trustee Act, to be held until the victim is age 18, subject to annual review \$2,200.00, for a total award of \$2,200.00.

FILE 922-014596

(Heard in Camera)

From 1977 to 1984, the victim, and her younger sister were sexually abused by their mother and step-father. The girls were made to have sex with their step-father on a regular basis, and on at least one occasion to perform oral sex on a stranger while their step-father looked on. Photos were taken of the girls engaging in sexual activities.

The girls led isolated lives and had little contact with their peers. Eventually, fears of being forced into street prostitution prompted the victim's sister to report the incident at school, and a call was made to the Children's Aid Society. Both children were immediately removed from the home, and subsequently made Crown Wards for one year with no access to their mother or step-father.

The victim suffered extreme psychological and emotional trauma.

Both she and her sister saw a psychiatrist on a weekly basis. The treatment may continue indefinitely. The girls are now in a foster home, where they will probably remain until they are 21 years of age.

The offenders were convicted.

The Board found that the application qualified under Section 5(a) of the Act, and ordered \$12,500.00 compensation for pain and suffering, in accordance with Section 36(6) of The Trustee Act, payable to the Accountant of the Supreme Court of Ontario, to the victim's credit, to be held until she attains the age of 21, subject to annual review, for a total award of \$12,500.00.

FILE 922-013923

(Heard in camera and publication prohibited)

The applicant is the mother of the victim.

Between October 19, 1982, and March 31, 1984, the victim was sexually assaulted by his schoolteacher.

As a result of these acts, and the upset of talking about it with family and in court proceedings, as well as facing fellow students and friends, the victim has gone through a great deal of emotional trauma. Some two years later, he was only beginning to get involved in community sports and activities.

The offender was convicted of gross indecency and sentenced to 18 months with two years probation.

The Board recommended subrogation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$2,000.00, to be paid to the Accountant of the Supreme Court of Ontario, to be held in trust for the victim until age 18. If the victim dies before reaching age of majority, the disposition of the moneys will be the subject of a review by the Board.

FILE 922-014658

The applicant, a 21-year-old Toronto labourer, was playing soccer in a park when a stranger came along and joined the opposite team. This was a casual game, but the stranger became very aggressive when he discovered that the applicant was a better player than him. Eventually, he became very angry and punched the applicant on the face. The applicant did not retaliate and was taken to hospital.

The applicant was treated for a fractured jaw requiring open reduction. He was given pain-killers and made a complete recovery four weeks later. He missed one month of work, and is left with a slight malar (cheek) deformity.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$2,114.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) loss of income to attend hearing \$75.00, translation service \$40.00, hospital records \$50.00, for a total award of \$4,279.00.

FILE 922-014597

The applicant, a 69-year-old Toronto housewife, was on a subway escalator, when a woman in front of her fell backwards, knocking her backwards and causing an abrasion to her right arm.

This matter was reported to police who filed it as an accident occurrence.

The Board was of the opinion that the applicant had failed to prove that she was injured as a result of a crime of violence as required under Section 5 of the Act, and therefore denied the application.

FILE 922-013603

(Heard in Camera)

The applicant, a 61-year-old commissionaire at an Armed Forces Base, while on duty discovered a pile of ceiling tile on the floor. A man appeared from an adjoining room and offered to accompany the applicant to report the incident.

On reaching the guard shack, the man turned on the applicant, wrested a night stick from his possession and knocked him to the ground. He viciously beat the applicant with the night stick about the head, and jumped on the applicant's chest and knees. The applicant was able to struggle over to a glass door which he kicked and broke, and which attracted the attention of a passing truck driver who climbed a fence to rescue him.

The applicant was in hospital for three days, and was treated for a fractured thumb and fourth finger on his left hand, a cerebral concussion, multiple scalp lacerations, a suspected undisplaced fracture of the breastbone and contusions to the head, chest and knee. The fracture of his finger and thumb healed in about six weeks. He has continued to have

bouts of vertigo depending upon how his head is positioned.

Lacerations the applicant suffered required numerous sutures and plastic surgery, and have left some scarring. The fractured sternum caused him prolonged pain on breathing, and still bothers him with certain physical activities. He required physiotherapy for continued pain and limited movement in his left shoulder for almost two years. He continues to suffer from shoulder problems, as well as nervous anxiety, nightmares, sensitivity to loud noise and surprise. He is unable to consider further employment as a security guard.

The offender was not apprehended, and a warrant for his arrest is outstanding.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Sections 7(1)(b) net loss of income \$2,565.00; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctor's report \$525.00; solicitor's fee \$300.00 and disbursements \$75.00, for a total award of \$7,465.00.

FILE 922-013735

The applicant, a Windsor man aged 25 and unemployed, answered a knock on his apartment door, and was stabbed in the abdomen by a woman. The applicant claimed he had never seen the woman before.

An investigation revealed that the stabbing may have occurred during an argument the applicant had with his girlfriend. The applicant did not report the incident until eleven days after it had occurred, and until after his welfare worker had advised him to do so if he wanted to make a claim with The Criminal Injuries Compensation Board.

None of the applicant's claim or testimony at the hearing, was backed up by physical evidence or witnesses. No one has been charged with respect to the incident.

The Board did not find the applicant to be a credible witness. While there is no doubt the applicant received a knife wound to the abdomen, the circumstances relating to how it happened were not established to the Board's satisfaction.

The Board denied the application under Section 17(2) of the Act, because the applicant did not report the offence promptly to the police.

FILE 922-014238

With the consent of the applicant, the Board heard and considered the application solely on the documentary evidence which had been filed with it.

The applicant, a 45-year-old single mother, was the victim of a purse snatcher.

The applicant suffered no significant physical injuries, but for many weeks afterward was apprehensive, generally nervous and afraid to go out after dark. The emotional stress contributed to a nervous breakdown she suffered four months later.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Section 7(1)(d) pain and suffering \$500.00, for a total award of \$500.00.

FILE 922-013420

At about 4:30 a.m. the applicant aged 20 and unemployed was asleep in his bedroom with his wife at their home in Hamilton. Two male friends who were sleeping in the living room let the offender and the offender's friend into the apartment believing the offender was a friend of the applicant.

The offender, who was known to applicant, went into the bedroom and proceeded to kick the applicant in the face. He then dragged the applicant out of the bed by his hair, and continued to kick him until he was unconscious. When the applicant came to, he found he had been dragged into the other bedroom and put in a walk-in closet, where the offender hit him a number of times with a hammer. The applicant lost consciousness the second time. The offender and his friend left the apartment.

The applicant's entire face was swollen and both eyes were swollen shut. He had multiple contusions on the left side of the neck, right lower chest and both flanks, and on his upper back. He had full thickness lacerations to the upper lip of the mouth, and a laceration that split the upper right eyelid. The lacerations were sutured under local anaesthetic. He also lost four teeth. X-rays revealed a minimal fracture of the nasal bones, and an undisplaced fracture of the left cheekbone. There was also a small puncture wound over the left knee that did not appear to be deep. He spent six days in hospital and was treated with analgesics.

The offender was convicted of aggravated assault, and sentenced to 18 months in jail.

The Board noted that the applicant's behaviour in the purchasing of illegal drugs, and failing to make complete payment for them to the offender, was the direct cause of the applicant's injuries. The applicant had been purchasing drugs for quite sometime and should have known of the risks involved.

The Board denied the application, but allowed costs to solicitor for fee \$300.00 and disbursements \$117.50, for a total of \$417.50.

FILE 922-014631

On August 3, 1984, the applicant, a 25-year-old Toronto student, was working as a child care worker at a half-way house. She was assaulted by one of the resident minors after questioning him in regards to the possibility that he might possess a weapon. The minor became abusive and violent. Eventually, the applicant and another child care worker were able to barricade themselves in a room and call police, who took the applicant to hospital and arrested the minor.

The applicant sustained a fractured nose, abrasions to the left elbow and right side of her chin, a cut on her left eyebrow and a bruised left eye. She attended a dental surgeon to make sure that there was no dental damage. Her nose required a cast for seven days.

The offender was charged with assault causing bodily harm, and sentenced to six months secured custody, and 12 months probation. The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) travel expense to attend hearing \$16.50, for a total award of \$2,516.50.

Former Members
of the
Law Enforcement Compensation Board
(April 1, 1968—August 31, 1971)

and its successor

The Criminal Injuries Compensation Board
(September 1, 1971)

Apr. 25, 1968 — May 11, 1972	Judge Colin E. Bennett	Chairman & Member
Apr. 25, 1968 — Mar. 22, 1972	Robert P. Milligan, Q.C.	Member & Vice-Chairman
Apr. 25, 1968 — Dec. 31, 1973	Fred B. Deacon	Member
*Feb. 5, 1970 — Feb. 15, 1976	Judge A. Roy Willmott	Member
Aug. 20, 1970 — Sept. 9, 1971	Judge Ian M. Macdonnell	Member
*Jan. 1, 1972 — Mar. 31, 1974	Arthur A. Wishart, Q.C.	Chairman and Member
Feb. 9, 1972 — May 31, 1974	Robert C. Rutherford, Q.C.	Member & Vice-Chairman
Apr. 19, 1972 — Nov. 1, 1974	Vincent K. McEwan, Q.C.	Member & Vice-Chairman
Jul. 1, 1973 — Apr. 1, 1978	Shaun MacGrath	Member, Vice-Chairman & Acting Chairman
Feb. 1, 1974 — Sept. 30, 1975	Eric H. Silk, Q.C.	Chairman and Member
Apr. 1, 1974 — Jan. 7, 1975	James W. Wakelin	Member
May 21, 1975 — Jun. 1, 1978	Stuart David Cork, Q.C.	Member & Vice-Chairman
Jan. 21, 1976 — Jan. 20, 1985	Allan Grossman	Chairman
*Feb. 16, 1976 — May 21, 1978	Edward W. Tyrrell, Q.C.	Member
Aug. 3, 1976 — Aug. 2, 1982	Douglas H. Lissaman, Q.C.	Member
Jun. 1, 1978 — May 31, 1985	Robert W. Mitchell, Q.C.	Member
Jun. 1, 1978 — May 31, 1985	Harvey Spiegel, Q.C.	Member
Sept. 1, 1978 — Aug. 3, 1984	Nathan L. Sandler	Member
*Jan. 30, 1980 — Jan. 29, 1986	Uno Viegandt	Member
Feb. 20, 1980 — Jan. 29, 1986	E. Lee Monaco	Member
Apr. 2, 1980 — Jan. 29, 1983	D. Arthur Evans	Member
Apr. 2, 1980 — Jan. 29, 1986	Linda Clippingdale	Member
*Sept. 1, 1984 — Apr. 26, 1985	Dr. Lyle Black	Member

On September 1, 1971, The Law Enforcement Compensation Act was superceded by The Compensation for Victims of Crime Act, and the title of the Board was changed from the Law Enforcement Compensation Board to the Criminal Injuries Compensation Board.

* (Deceased)

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Ontario
Criminal Injuries
Compensation Board
1986/87



THE
EIGHTEENTH REPORT
of the
ONTARIO
CRIMINAL INJURIES COMPENSATION BOARD
administering
THE COMPENSATION FOR VICTIMS OF CRIME ACT
for
the fiscal year
April 1, 1986 to March 31, 1987

THE BOARD

MARGARET SCRIVENER

Chairman

GERALD M. HARQUAIL

Vice-chairman

ANNE STANFIELD

Vice-chairman

Vera Brookes

Gloria J. Burt

Greville Clarke

Eli Freeman

John D.V. Hoyles

Rita Kaeding

Celia Kavanagh

James D. Lang

John F. Santos

Judith Stephens-Wells

Teresa Tait

Anne Tomjenovic

Members

★ ★ ★ ★ ★ ★ ★

V.P. GIUFFRE

J.H. SHEARD

Registrar

Chief of Investigations

★ ★ ★ ★ ★ ★ ★

Copies of this report may be obtained from:

Criminal Injuries Compensation Board

17th floor, 439 University Avenue,

Toronto, Ontario M5G 1Y8

Telephone: (416) 965-4755



Office of
The Chairman

Cabinet du
President

Criminal Injuries
Compensation
Board

Commission d'indemnisation
des victimes d'actes
criminels

439 ave. University Ave.
17th Floor/17e étage
Toronto, Ontario
M5G 1Y8
(416) 965-4755

The Honourable Ian Scott,
Attorney General for Ontario,
Parliament Buildings,
Queen's Park,
Toronto, Ontario

Honourable Sir:

I have the honour to submit the Eighteenth
Report of the Criminal Injuries Compensation Board,
which covers the period April 1, 1986 to March 31,
1987.

Sincerely,

A handwritten signature in dark ink, reading "Margaret Scrivener". The signature is written in a cursive style with a large initial "M" and a long horizontal stroke at the end.

Margaret Scrivener (Mrs.)
Chairman

Program Description

The Legislation

The legislation under which the Board functions is the Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967.

The Board is required by the Act to find the commission of a crime of violence in the principal class of applications coming before it. A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies.

Section 6 of the statute prescribes a one-year limitation period for filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 224 requests for extension of the limitation period were approved and 21 were denied.

Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums:

In the case of lump sum payments, up to \$25,000. and in the case of periodic payments, up to \$1,000. per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is \$12,500.

These new maximums were enacted in November, 1986.

Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to injury or death. The sum of \$61,962. was recovered during the fiscal year, compared to previous years, as follows:

1985/86	\$68,729.
1984/85	62,991.
1983/84	38,679.
1982/83	26,834.
1981/82	30,983.

Hearings

The Board, composed of a full-time Chairman, one full-time Vice-Chairman, one part-time Vice Chairman and twelve part-time Members, usually sits in panels of two.

Although a large number of Hearings were held in Toronto, during the fiscal year Hearings also took place in Thunder Bay, Sudbury, Sault Ste. Marie, Windsor, London and Ottawa. This is done routinely to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

Documentary Evidence Hearings

Some applications are relatively minor and simple of adjudication. Therefore, with the consent of the applicants, they are dealt with on documentary evidence alone. A total of 44 were heard in this manner during the fiscal year.

This approach minimizes the need to inconvenience the applicant and/or solicitor and witnesses insofar as travelling to the location of Hearings, the attendant loss of work time and expenses involved.

Child Abuse

During this fiscal year the Board received 88 applications in respect of child abuse, heard 37 cases and awarded \$262,780.26.

Administration and Productivity

The administrative staff of the Board is composed of the Registrar, Chief of Investigations, three investigators and a secretarial, stenographic and clerical staff of eight.

In this fiscal year, the Board heard 1141 applications and 1376 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year.

The total value of awards increased from \$4,000,275. in 1985/86 to \$4,310,085. in 1986/87. Of this amount, \$770,926. was in the form of periodic payments.

The number of applications received increased from 1799 in 1985/86 to 2000 in this fiscal year. Due to heightened public interest in the

welfare of injured victims of crime, it is anticipated that the application rate will continue to escalate.

Public Awareness

Large posters and explanatory pamphlets in five languages are supplied to hospital emergency wards and staff lounges, Court Houses and other public buildings, super-markets, etc.

Police forces throughout the province have been supplied with hundreds of thousands of walletsized cards to be given to victims of crimes of violence advising them how to apply to the Board.

The daily Hearing agenda and a selection of typical Board Orders are provided to the news media, and others upon request.

Cost Sharing

Awards made under the Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts to the lesser of 50% of the awards (net of any recoveries), or ten cents per capita of the population of the Province. For the fiscal year 1985/86, this share amounted to \$906,620. The Federal Government does not share administrative costs.



Ontario

ONTARIO CRIMINAL INJURIES COMPENSATION BOARD

Injured innocent victims of violent crimes may be eligible for compensation from the above Board. Reporting to, and co-operating with, the Police, is an important consideration. If you feel you may qualify, contact the Board immediately at (416) 965-4755, or write to 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8.

(9/8/83)



Ontario

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS DE L'ONTARIO

La Commission susmentionnée peut accorder une indemnisation aux victimes innocentes d'actes criminels violents qui ont été blessées. Il est primordial de contacter la police et de collaborer avec elle. Si vous pensez avoir droit à une indemnisation, veuillez contacter immédiatement la Commission, en téléphonant au (416) 965-4755, ou en écrivant à l'adresse suivante: 439, avenue University, 17^e étage, Toronto, Ontario M5G 1Y8.

(9 8 83)

Applications by Area

Acton	4	Blind River	2	Coboconk	1
Ajax	3	Bowmanville	4	Cobourg	8
Alliston	1	Bradford	2	Colborne	1
Amherstburg	5	Bramalea	4	Collingwood	4
Apsley	1	Brampton	17	Cookstown	1
Armstrong	1	Brantford	17	Cooksville	1
Arnprior	1	Brockville	5	Corbyville	2
Arthur	1	Burks Falls	2	Cornwall	7
Atikokan	1	Burlington	9	Crystal Beach	2
Attawapiskat	1	Caledonia	1	Delaware Township	1
Aurora	1	Cambridge	6	Deseronto	3
Aylmer	1	Campbellford	1	Dorset	1
Bancroft	1	Cannington	2	Dryden	2
Barrie	6	Carleton Place	1	Dundas	4
Barry's Bay	1	Carlisle	1	Earlton	1
Bath	1	Chatham	11	Elliot Lake	2
Beardmore	1	Chatsworth	1	Erin	1
Belle River	2	Christian Island	1	Essex	2
Belleville	27	Clinton	2	Fenelon Falls	2
Blenheim	1	Cobalt	1	Fergus	1

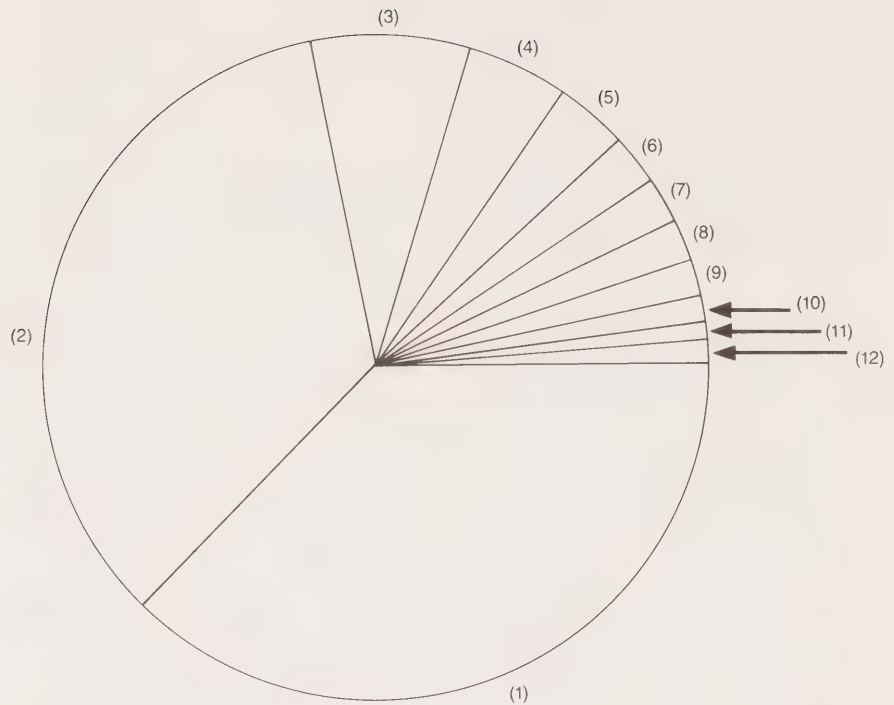
Applications by Area (cont'd)

Feversham	1	Mississauga	41	Sault Ste. Marie	29
Fort Erie	3	Moosonee	2	Scugog	1
Fort Francis	1	Mountain	1	Sebringville	1
Glen Eden	1	Mount Forest	1	Shelburne	1
Glengarry County	3	Napanee	4	Sherkston	1
Gloucester	1	Nepean	8	Simcoe	4
Goderich	4	Newcastle	2	Sioux Lookout	1
Goldburn Township	1	New Liskeard	1	Smiths Falls	5
Grand Bend	2	Newmarket	1	Southampton	2
Granton	1	New Osnaburgh	1	South Porcupine	1
Gravenhurst	1	Niagara Falls	34	Stayner	2
Grimsby	2	Nipigon	1	Stevensville	1
Guelph	11	Noelville	1	Stirling	1
Gull Bay Reserve	1	North Bay	5	Stittsville	1
Hagersville	3	Norval	1	Stouffville	1
Hamilton	123	Oakville	10	Stratford	3
Hammond	3	Orangeville	1	Strathroy	3
Hawkesbury	3	Orillia	4	Streetsville	1
Hillsburgh	1	Orville	1	Stroud	1
Hornepayne	1	Oshawa	17	Sturgeon Falls	1
Huntsville	1	Osnaburgh Reserve	2	Sudbury	37
Ignace	1	Ottawa	100	Sutton	1
Ingersoll	1	Owen Sound	2	Tabeau Lake	1
Innisfil	3	Palmerston	1	Talbotville	1
Johnstown	1	Paris	3	Tecumseh	1
Kanata	1	Parry Sound	1	Terrace Bay	1
Kemptville	1	Pembroke	4	Thessalon	1
Kenora	8	Penetanguishene	1	Thorold	5
Kincardine	3	Perth	2	Thunder Bay	32
Kingston	37	Petawawa	4	Tilbury	1
Kirkland Lake	2	Peterborough	13	Tillsonburg	1
Kitchener	18	Petrolia	3	Timmins	9
Lakefield	1	Pickering	6	Toronto	782
Lasalle	1	Pickle Lake	1	Trenton	5
Leamington	2	Picton	4	Uptergrove	1
Lindsay	2	Port Colborne	5	Uxbridge	1
Linfield	1	Port Credit	1	Vanier	5
Listowel	1	Port Hope	4	Wainfleet	1
Lodon	68	Port Perry	3	Walkerton	2
Malton	1	Port Robinson	3	Wallaceburg	4
Marathon	1	Port Stanley	1	Wasaga Beach	1
Markham	4	Powasson	1	Waterford	1
Markstay	1	Prescott	2	Waterloo	18
Marlbank	1	Queensville	2	Weagamom Lake	1
Marmora	1	Renfrew	2	Webbwood	1
Matachewan	1	Richard's Landing	1	Welland	15
Mattawa	1	Richmond	1	Weston	2
Meaford	3	Richmond Hill	1	Wheatley	1
Melbourne	1	Ridgeway	2	Whitby	10
Midland	5	St. Catharines	40	Warton	3
Millbrook	1	St. Thomas	5	Wilo	1
Millhaven	1	St. Anne de Prescott	1	Windsor	65
Milton	2	Sandwich	5	Woodstock	8
Minaki	2	Sarnia	10		
Minden	1	Saugeen	1	TOTAL	2,000

Types of Crime as Listed on Applications

Common Assault	669
Assault Causing Bodily Harm	84
Sexual Assault	248
Robbery with Assault	89
Murder	80
Attempted Murder	70
Assault Police	67
Resist Arrest	55
Wounding	44
Aggravated Assault	38
Criminal Negligence	19
Assault With a Weapon	17
Robbery With Violence	6
Manslaughter	5
Failure To Provide Necessities of Life	3
Assault With a Vehicle	2
Common Nuisance Causing Harm	2
Arson	1
Kidnapping	1
Total:	2,000

NB: The above statistics include 88 cases listed under the Criminal Code and commonly referred to as “Child Abuse”. Similarly, cases relating to wife battering and other forms of family violence are encompassed within the assault categories.



1) Common Assault	33.5%	7) Assault Police	3.4%
2) Assault causing bodily harm	29.2%	8) Resist Arrest	2.8%
3) Sexual Assault	12.4%	9) Wounding	2.2%
4) Robbery with Assault	4.4%	10) Aggravated Assault	1.9%
5) Murder	4.0%	11) Criminal Negligence	.9%
6) Attempted Murder	3.5%	12) Other	1.8%

Note: "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 88 cases commonly referred to as "Child Abuse." Family violence cases, especially wife battering, are encompassed within the various categories of assault.

COMPARATIVE SUMMARY
of
APPLICATIONS AND DISPOSITION

BY FISCAL YEARS
APRIL 1, 1986 to MARCH 31, 1987

COMPARATIVE SUMMARY — FISCAL YEARS APPLICATIONS AND DISPOSITION

	April 1, 1983 to March 31, 1984	April 1, 1984 to March 31, 1985	April 1, 1985 to March 31, 1986	April 1, 1986 to March 31, 1987
Eligible applications received	1488	1697	1799	2000
Applications heard (1)	925	1041	1233	1141
Applications heard on documentary evidence	74	132	81	44
Applications heard but denied	59	67	48	54
Review of awards	6	6	3	6
Decisions completed and awards ordered (2)	970	1086	1220	1376
Files closed	431	415	455	489
Interim awards	3	5	7	7
Supplementary awards	83	76	81	268
Periodic awards	18	15	15	21
Lump sum payments	\$2,677,791.38	\$2,693,372.73	\$3,382,775.91	\$3,539,159.10
Periodic payments	\$ 571,924.18	\$ 592,510.81	\$ 617,499.36	\$ 770,926.26
Total of awards ordered	\$3,249,715.56	\$3,285,883.54	\$4,000,275.27	\$4,310,085.36
Average award (3)	\$ 2,870.61	\$ 2,480.08	\$ 2,772.76	\$ 2,451.54

NOTE:

- (1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include closed files.
- (2) Includes Interim, Supplementary and Periodic Awards.
- (3) Periodic Payments not included when arriving at Average Award.

CONSOLIDATED SUMMARY OF AWARDS
APRIL 1, 1986 TO MARCH 31, 1987.

Months	No. of Awards	Medical Expenses	Loss of Earnings	Pecuniary Loss to relatives of Deceased Victim	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Legal Fees	Total Lump Sum Awards	Total Monthly Awards
		\$	\$	\$	\$	\$	\$	\$	\$	\$
April	105	9,697	33,245		212,750	11,200	18,740	12,725	298,358	51,743
May	177	11,961	26,411		317,450	5,968	21,177	18,950	401,917	52,173
June	155	17,293	27,318	2,670	283,900	11,870	21,516	14,642	379,209	52,408
July	92	14,458	20,638		127,175	18,364	9,717	8,725	199,077	52,533
August	91	10,642	27,427	8,500	187,200	5,000	14,448	10,050	263,267	52,833
September	106	32,906	21,924	28,650	194,450	22,411	17,028	16,925	334,294	53,422
October	100	7,752	16,749		228,475	2,330	12,627	13,025	280,958	53,134
November	206	11,065	37,550	15,883	219,095	4,277	19,116	12,250	319,237	53,944
December	106	15,258	23,471	2,270	172,545	13,427	12,989	5,850	245,811	53,202
January	64	5,699	11,335		181,400	2,500	13,347	8,325	222,606	97,906
February	67	8,700	15,562	24,232	213,400	5,000	5,860	8,378	281,132	98,689
March	107	13,930	11,615	2,031	240,170	5,875	26,548	13,125	313,293	98,939
Total	1376	159,361	273,245	84,236	2,578,010	108,222	193,113	142,970	3,539,159	770,926
		4.49%	7.74%	2.38%	72.85%	3.05%	5.45%	4.04%		
Combined Totals of Lump Sum and Monthly Payments										4,310,085

EXAMPLES OF DECISIONS

April 1, 1986 to March 31, 1987

THE BOARD ORDER — AN EXPLANATORY NOTE

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action.

Under the Compensation for Victims Act which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category.

Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant.

Section 22 of the Act provides for an order for costs, usually those entailed in making, or providing support to, an application.

Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently

- (a) new evidence has become available, or
- (b) change of circumstances has occurred, or
- (c) the Board considers any other matter relevant, on the application of any of the parties to the proceedings; the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this provision.

Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors.

As well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media, students and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a Hearing is held in camera or publication is restricted.

Examples of Decisions

FILE 922-014820

The 28-year-old female applicant was employed at a convenience store in Capreol.

One August evening shortly after 11 p.m., the offender entered the store and without provocation, shot the applicant in the back with a shotgun at point blank range. The offender then shot and killed himself. The offender had threatened and harassed the applicant in the past, although there had never been a personal relationship between the two. Police were called to the scene.

The applicant was taken by ambulance to hospital shortly thereafter. As she was shot in the back of the right chest, the injuries were in the region of the right scapula, chest and lung. There was a pneumothorax (air/gas in chest cavity) on the left side and blood and air had collected in the right chest cavity.

At hospital, the applicant was resuscitated and a thoracotomy (incision of the chest wall) revealed a contused right lung. Air was leaking from a perforation in the right main bronchus and this was repaired. 25-30 pellets remain in the applicant's chest wall. There are several others in the cardiac tissue, and others in the lung tissue which move with her respiration. Palpitations and sometimes an irregular heart beat are a result of these lodged pellets. If they cause problems in the future they may have to be removed.

Since muscle and tendon damage was sustained in the right shoulder area the mobility of the right upper arm was hindered and physiotherapy was required. There are noticeable scars on the applicant's right upper back and under her right breast. The applicant is still bothered by the event and has trouble sleeping.

Discharged from hospital, the applicant stayed with her mother for several months, during which time she required daily home care. She then moved back to her own home with her two children. Baby-sitters were sometimes required for the children and it was not until

after Christmas that the applicant was able to stay home alone.

The applicant had, prior to the incident, entered a written agreement to buy and operate the convenience store. This agreement could not be carried out due to the injuries sustained and the applicant testified that she lost a rare opportunity to become self-supporting.

The Board found that the applicant qualified under Section 5 (a) and awarded compensation under Section 7 (1) (d) pain and suffering, \$15,000.00.

FILE 922-015820

The applicant, a 24-year-old employed female, was preparing Thanksgiving dinner at her home in Kenora. Her husband, the offender, entered the kitchen and, without warning or provocation, walked to a drawer, pulled out a fishing knife and stabbed her in the right eye. A friend found the applicant unconscious with the blade of the knife still embedded in her eye. The police and ambulance were summoned.

The applicant was rushed to a local hospital and then transferred by plane to a hospital in Winnipeg. Surgery revealed that the knife had perforated the right globe which required the eye to be removed and right orbit sutured. She was discharged from hospital a week later, but made several return visits to Winnipeg for work on her prosthesis.

Medical evidence was submitted to indicate that follow-up work and replacement of the prosthesis would be required in the future. The applicant was advised of Section 25 of the Act in this respect. The applicant also underwent counselling to help her adjust to the emotional trauma of her injury.

The offender was charged with attempted murder, found not guilty by reason of insanity and sent to a mental institution.

The Board found that this application qualified under Section 5 (a) of the Act, the crime of

violence being attempted murder. Compensation was ordered under Section 7 (1) (a) prosthetic devices \$824.00; travel for treatment \$1,699.75; 7 (1) (b) loss of income \$371.20; 7 (1) (d) pain and suffering \$7,500.00; and 7 (1) (f) travel expenses to hearing \$75.60, legal fees \$350.00 and disbursements \$405.00, for a total award of \$11,225.55.

The Board allowed an extension of the time limit for filing the application.

A Variation of the Order was allowed upon the submission of documentation for additional prosthesis costs of \$162.50. The total award to date is \$11,388.05.

FILE 922-013760

The applicant, a 19-year-old clerk, was driving to her Kingston home shortly after midnight when she stopped for a red light. An escaped prison inmate, the offender herein, opened the driver's door, threatened the applicant with a knife, and told her to move over to the passenger's seat.

The offender then proceeded to drive to the outskirts of Kingston, and sexually assaulted the applicant. He then drove back to Kingston, where he filled the car up with gas.

The offender forced the applicant to remain in the car while he drove to Ottawa, stopping on the way to sexually assault the applicant again. They arrived in Ottawa around 4:00 a.m., and the offender got out of the car and fled. The applicant drove back to Kingston and told her mother who took her to the police, who in turn drove her to hospital.

At hospital the applicant's physical injuries were diagnosed as minor. However, the emotional trauma caused by the assault was severe. She was discharged shortly thereafter, but she received psychotherapeutic treatment from two psychiatrists.

Medical evidence indicated that the applicant was severely depressed and had great difficulty functioning normally for at least 14 months. The applicant was frightened to drive alone or stay at home by herself. Her relationship with her fiancé was strained, and the applicant's parents were forced to move because of her fear the offender would return. She was off work for 15 months.

The offender was apprehended and convicted of robbery, forcible confinement, sexual assault, use of a weapon while committing an indictable offense and escaping custody. He was sentenced to five years consecutive to time being served, one year concurrent, two years consecutive, five years concurrent, two years concurrent and three months concurrent, respectively.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being sexual assault, and ordered compensation under: 7 (1) (b) net loss of income \$3,190.55; 7 (1) (d) pain and suffering \$8,000.00; 7 (1) (f) travel expenses to hearing \$133, solicitor's fee and disbursements \$1,010.00, for a total award of \$12,333.55.

FILE 922-015968

(Heard on documentary evidence.)

This application was brought by the grandfather of the victim, his deceased grandson. The 7-year-old victim was fatally shot in the chest by his father who was distraught over the break up of his ten-year common-law relationship. The victim's father was incapable of dealing with his separation from the family, and as a result killed the victim, his wife, and himself in a van parked on a road outside Elmvale.

The Board found the application qualified under Section 5 (f) of the Act, and ordered compensation under: Section 7 (1) (a) funeral expenses incurred \$1,685.00.

FILE 922-012296

(Heard on documentary evidence.)

Although a resident of Regina, Saskatchewan, the incident occurred one evening when the applicant was visiting in Toronto.

The applicant was at an apartment building to visit a friend when she encountered the offender with whom she was acquainted. The offender and the applicant had an argument, with the offender accusing the applicant of stealing the offender's watch. The offender threatened to kill the applicant if he saw her again, and the two then parted company.

Approximately an hour later, the two again encountered each other in the building, and

the offender struck the applicant in the face with an unopened beer bottle.

The applicant was taken to hospital and received approximately 45 sutures for lacerations below her nose, above the inside right eyebrow, the bridge of her nose and above the inside left eye. She also had a broken nose and was admitted to hospital for a ten day period for repair of a corneal laceration to her left eye.

As the applicant was experiencing breathing problems resultant from her broken nose, she eventually underwent a septalplasty (surgery of the septum). The applicant had trouble sleeping for 2-3 months after the incident and has some double vision in the left eye.

The offender was convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (d) pain and suffering, \$2,500.00.

FILE 922-013530

The applicant, a 16-year-old Toronto student, went to visit a friend with her boyfriend. When they found no one home, they proceeded to walk across a parking lot to return to their car. They came across a group gathered around two men who were arguing. One man threw a beer bottle at the other man, hitting him in the head and causing the bottle to shatter. A piece of the glass hit the applicant in the right eye. It lacerated the lid and ruptured her eyeball.

The applicant was taken to hospital. Unfortunately, the eye could not be saved and a little less than two years later her right eye was removed and a silastic ball was implanted. An artificial eye will be manufactured and implanted at a later date.

The offender was charged with criminal negligence causing bodily harm and found not guilty. The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (a) travel for treatment, \$535.00, corrective lens, \$130.00, net hospital expenses, \$67.00; 7 (1) (d) pain and suffering, \$9,000.00; 7 (1) (f) doctor's report, \$75.00; solicitor's fee, \$350.00 for a total award of \$10,157.00.

FILE 922-015132

One summer afternoon, the applicant, a 30-year-old male Toronto Transit Commission employee, was driving a bus to a subway station in North York. A group composed of an adult female, a teenage female and a child, boarded and were asked to pay the fare. An argument ensued, but the group eventually complied with the driver's request.

Upon arrival at the station, the applicant exited. Upon his return to the bus he was set upon, and apparently hit on the head by a shopping bag containing beer bottles and was knocked unconscious. When the applicant came to, he was lying on the bus platform being kicked, punched and bitten by the same woman, teenager and child. The group was subdued by two other drivers, but were released and fled. They have never been apprehended.

After giving his statement to the police, the applicant, returned home where he lapsed into unconsciousness. He was taken to hospital and treated for a one-inch cut on his forehead, a 1½ inch long scratch below the right eye, numerous bruises over his chest, and back and a human bite mark on the left side of the chest. The applicant attended his family physician the next day complaining of pain in the shoulder, chest, ribs and back area and was advised to rest and take analgesics. The applicant testified that he still experiences some pain in his chest and feels less secure driving buses since the accident.

The applicant was off work for three weeks.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being assault bodily harm. Compensation was ordered under Section 7 (1) (b) loss of income \$129.68; 7 (1) (d) pain and suffering \$1,500.00 and 7 (1) (f) hospital records and travel expenses to hearing \$50.00, for a total award of \$1,679.68.

FILE 922-011841

(Heard on documentary evidence.)

The applicant, 37-years-old, was at the time of the incident working on an employment project in Parry Sound. He testified that on one evening he had patronized three drinking establishments and had consumed a large quantity of alcohol. While at the final stop, an unknown assailant

approached him and started to fight. The applicant testified that he was thrown to the ground, where his right leg was jumped on by a second assailant.

The applicant did not report the incident to police, and did not attend hospital until 16 hours after the assault. In fact, after the incident, the applicant returned to his home, and after an hour's rest, went with his common-law wife to a hotel for more beers, and dancing.

The applicant went to hospital the day after the incident, and it was found that he had a fracture of the malleolus (*ankle*) and fracturing of the fibula and tibia (*skin*). The injuries required an open reduction with internal fixation, the leg being placed in a cast for 2 months. The internal fixation was removed in March 1984 and the leg has healed well.

The Board asked the applicant to supply it with the address of an individual who the applicant said would supply an eye-witness account of the incident. The applicant failed to do this.

As the applicant failed to seek immediate medical attention, went out dancing for two hours after the alleged assault, did not report the matter to police, and did not provide the information that the Board requested with regard to the eyewitness, the Board concluded that he had not satisfied the onus of establishing that his injury was a result of a crime of violence. Consequently, no compensation was awarded.

The Board also noted Section 17 (2) of the Act as it relates to the applicant's failure to notify police of the assault.

FILE 922-014962

This application was brought by the mother of the victim, a 14-year-old Mississauga student.

Between 7:00 and 8:00 p.m., while returning from a convenience store one evening, the victim was carrying a bag containing a jug of ammonia which he had purchased for his mother.

The victim encountered two youths, one of whom after enquiring about what was in the bag, grabbed it and removed the jug of ammonia. The youth then sniffed the contents of the jug.

The second youth took the jug and suddenly grabbed the victim by the jacket and poured the

ammonia down his neck. The victim swore at the offender who splashed some ammonia in the victim's eyes. The victim fell to the ground screaming and was subsequently taken by a third party to the victim's parent's home.

The victim's father washed out the victim's eyes with water while his mother phoned the police and ambulance which took the victim to the hospital. The diagnosis was chemical conjunctivitis (*inflammation of the membrane that lines the eyelid*). The eyes were treated, patched and the victim was discharged.

Next day, the victim's eyes were still badly inflamed, Maxidex drops were applied and the inflammation gradually resolved.

The victim is still minimally light sensitive, but time may cure this. The victim received counselling for emotional upset and internal feelings of anger.

The offender was convicted of assault bodily harm and sentenced to four months secure custody, 12 months probation and payment of \$133 restitution.

The board found that the application qualified under section 5 (a) of the Act and awarded compensation under; 7 (1) (a) ambulance and counselling \$155.00; 7 (1) (d) pain and suffering \$800.00 to be paid to the accountant of the Supreme Court of Ontario in trust for the victim until the victim attains the age of majority for a total of \$955.00.

FILE 922-016243

(Heard on camera)

The applicant, a 45-year-old executive secretary, was asleep in her Toronto apartment when at approximately 2:00 a.m. the offender cut a hole in the screen of her second floor balcony door and entered the premises. The applicant awoke when the offender entered her room and pulled her from her bed. The offender proceeded to punch the applicant several times in the face, and when she screamed he covered her mouth with his hand. The applicant was terrified of being killed. She was then sexually assaulted by the offender, who later stole \$45.00 and fled.

The applicant phoned police who arrived and took her to hospital where she underwent a rape kit procedure. It was also noted that the applicant sustained two black eyes, abrasions to her left

cheek and right elbow, and a small vaginal laceration. In addition, she complained of headaches and extreme anxiety. Anti-biotics were prescribed, her wounds were treated and she was discharged.

Two weeks later, the same offender, as it ultimately proved, broke into the applicant's apartment again at approximately 2:15 a.m. Neighbours heard the sound of breaking glass and phoned the applicant to warn her. The applicant fled her apartment, and the neighbours identified the fleeing offender to police.

The applicant testified that she suffered extreme anxiety after the initial assault, and this was exacerbated by the second break-in. Her family doctor advised her in March 1986 that the offender carried the A.I.D.S. virus. However, after another period of severe anxiety, the applicant was found to be not infected.

The applicant's physical recovery took several months, although the emotional impact lasted for about nine months. The applicant felt compelled to move to a higher floor in her building and was reluctant to take the prescribed tranquilizers for fear of becoming addicted. She is afraid to go to the building laundry room alone and is continually aware of people approaching her from behind.

The offender was convicted of three other charges of sexual assault and sentenced to 18 years in prison and 60 days psychological testing.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being sexual assault, and ordered compensation under; 7 (1) (d) pain and suffering \$10,000.00.

FILE 922-014768

The applicant, a 48-year-old businessman, was working in one of his Toronto stores when the offender, a 20-year-old woman, entered the shop around 7:20 p.m. The offender approached the applicant at the sales counter and demanded money. When the applicant told her that he did not have any money, she pulled out a revolver and shot the applicant in the right chest before fleeing.

The applicant was taken to hospital by ambulance where he underwent a chest tube laparotomy and surgery to repair a lung perforation

and several fractured ribs. He underwent multiple blood transfusions, and was released in about two weeks.

The applicant saw his family doctor bi-weekly for three months and monthly thereafter for pain in his right chest for which was prescribed Tylenol No. 3. A more serious consequence was a reactive depression which pro-longed his recovery and prevented him from working in his stores. The applicant's doctor's report indicated that his disability could reasonably last for one year.

The offender was convicted of robbery and use of a firearm in commission of an indictable offence, and sentenced to four years and one year consecutive.

The Board found the applicant qualified under Section 5(a), the crime of violence being robbery, and ordered compensation under: 7(1) (b) lost wages \$10,000.00; 7(1) (d) pain and suffering \$5,000.00; 7(1) (f) legal fees and disbursements \$535.00 for a total award of \$15,535.00.

FILE 922-012144

The applicant was a 31-year-old correctional officer working in the special handling unit at Millhaven Institution in Bath, Ontario.

While preparing to escort the offender, an inmate, to the exercise yard, the offender was handed an envelope by another inmate. The applicant took the envelope in order to check it for contraband, and was then punched several times in the face by the offender. The applicant subdued the offender with the help of one of the two officers who was with him and another officer who came from the end of the range.

The applicant was seen by the medical staff at the Institution and his injuries were listed as a sore left jaw and cheek bone, swollen and cut bottom lip and a headache. Soreness in the jaw area lasted for 3-4 weeks and was trouble-some to the applicant when he ate.

The applicant saw his family physician who, concerned about his emotional reaction to the incident, referred him to a psychiatrist specializing in prison-related problems. The applicant has suffered sleep disturbances and resumed smoking after abstaining for a three year period.

Both doctors found the applicant to be frustrated and linked these frustrations to the applicant's work.

Both doctors recommended that the applicant take time off work to deal with these frustrations. The applicant subsequently took 6 weeks off work.

The offender was convicted of assault under the penitentiary service regulations.

The Board found that the application qualified under Section 5(a) of the Act and awarded compensation under Section 7(1) (d) pain and suffering, \$1,200.00; 7(1) (f) travel expenses to Hearing, \$126.50 for a total award of \$1,326.50.

FILE 922-014960

One afternoon the applicant, a 58-year-old male, was walking to a local grocery store in Hamilton. The offender emerged from a nearby residence and approached the applicant inquiring, "What's your problem?" and then punched the applicant on his left cheek. There was no provocation for the occurrence and the offender was a total stranger to the applicant. The applicant telephoned police at a nearby residence.

The applicant attended his family physician and was treated for bruising and swelling of the left cheek, but no fractures were indicated. It took approximately three weeks before the applicant regained his former state of health.

The offender was charged with assault, but failed to appear at the subsequent criminal proceedings. A bench warrant for his arrest remains outstanding.

The Board found the application qualified under Section 5(a) of the Act, the crime of violence being assault. Compensation was ordered under Sections 7(1) (d) pain and suffering \$300.00, and 7(1) (f) travel expenses to hearing \$10.00, for a total award of \$310.00.

FILE 922-013736

(Heard In Camera.)

The victim herein is a 14-year-old female living in a small Ontario community. The application was brought on her behalf by her father.

From the age of eight, the victim had worked part-time grooming horses on a local horse farm. After a couple of years, her employer, the offender herein, began to occasionally fondle and kiss the victim. The victim accepted these advances and did not tell anyone of them because the offender made threats of killing her father and brother. When the victim was 14-years-old, the offender had sexual intercourse with the victim for the first time. This continued for six months, when the victim refused his sexual advances and quit her job at the horse farm.

Six months later, the victim complained of back pains and was taken to hospital by her parents. At hospital, the victim was found to be pregnant, and shortly thereafter, gave birth to a full-term, baby girl. This child was adopted privately.

Out of a concern for the public perception of her pregnancy, the victim and her family moved to another community. The victim is now doing extremely well in school, and in her new environment.

The offender was convicted of sexual intercourse with a female between 14 and 16 years of age.

The Board found that the application qualified under Section 5(a) of the Act and awarded compensation under: Section 7(1) (a) lost income, \$272.00, 7(1) (d) pain and suffering, \$6,000.00; and 7(1) (f) income lost to attend Hearing and travel expenses to Hearing, \$212.00; and to the applicant's solicitor, legal fees of \$400.00 and disbursements of \$134.00. The total award was \$7,018.00.

The pain and suffering award to the victim was paid to the Accountant to the Supreme Court of Ontario to be held in trust for the victim until she reaches the age of majority.

FILE 922-014586

The applicant, a 21-year-old student and part-time employee, was at a crowded bar in Hamilton with two male friends. He was seated at a table drinking beer when about midnight he was pushed from behind by someone in the crowd.

When the applicant stood up and protested to the person who had pushed him, he was immediately punched in the face and received a cut on the arm. A scuffle ensued and the

bouncers at the bar intervened and escorted all the participants outside. Once all the parties were outside the bar, one of the assailants, the offender, began verbally abusing the applicant, then kicked him in the stomach and stabbed him in the left eye. The applicant managed to run around a corner and then fell to the pavement, bleeding profusely. Bouncers from the bar restrained the group until the police arrived.

The applicant was taken to the hospital where it was noted that the left eyeball had been almost cut in half horizontally. The ocular content was extruding while the eye itself filled with blood. Since the eye could not be repaired, it was removed during surgery. Two superficial lacerations on the left upper arm and eyelid were sutured. The applicant was hospitalized for three days, then discharged.

The applicant was fitted with a prosthesis and prescribed medication for pain. He was confined to bed for one week and wore an eyepatch for approximately six weeks after the incident. The applicant testified that he had headaches and was depressed for some time after the assault, but had adjusted well to the loss of his eye.

The offender was convicted of aggravated assault and sentenced to 20 months imprisonment.

The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (a) drugs, \$49.31, prosthesis device, \$600.00, travel for treatment, \$88.20, other related expenses, \$66.00; 7 (1) (b) loss of income, \$200.00; 7 (1) (d) pain and suffering, \$8,500.00 and legal fees, \$300.00 and disbursements, \$315.00 for a total award of \$10,118.51.

FILE 922-012435

The applicant, a 60-year-old steel mill foreman in Hamilton, went alone to a hotel bar one evening where he socialized and danced. The applicant became extremely intoxicated and left the hotel in the company of two females.

The following morning, the applicant was found with bloodied face and in a semi-comatose state, lying in a ditch several miles from the hotel. He was taken by ambulance to a Hamilton hospital and treated for head injury with associated left brachial plexus injury (*nerves in the arm*). The applicant was totally confused and disoriented for two to three months, was bed-ridden during

that time and developed cardiac arrhythmia (*irregular heartbeat*). The applicant has no recall of the incident.

Three months later, the applicant was transferred to another Hamilton hospital still suffering from cognitive deficits and memory loss. Two EMG's revealed incomplete lesions in the cervical spine, affecting the left upper extremity. The applicant was discharged from hospital in another two months but continued physiotherapy.

The applicant returned to work the following spring, but was advised by his doctor to quit due to ongoing problems and an overall state of dysfunction. The applicant received full pay up to the time he stopped work, and went on long-term disability until the date that he would have ordinarily retired.

The Board requested information from the applicant's employer pertaining to pensions and benefits during the time the applicant was to be on long-term disability. This amount would be dealt with under Section 25 of the Act.

There were no charges laid for this incident.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (a) travel for treatment, \$10.00; 7 (1) (d) pain and suffering, \$7,500.00; 7 (1) (f) doctor's reports and travel expenses to attend Hearing \$535.00; and legal fees of \$500.00 and disbursements of \$366.50 for a total award of \$8,911.50.

FILE 922-012505

At approximately 1 a.m., the applicant, a 43-year-old Sault Ste. Marie businessman, attended at a restaurant with his brother and two business associates in order to have a late snack. They left the restaurant and were gathered around their cars talking when a group of three men, the offenders, approached and made some derogatory remarks.

There was a verbal exchange between the groups when suddenly one of the offenders slapped the applicant's brother several times in the face. One of the applicant's associates ran to a nearby gas station to phone police as the offenders turned their attention to the applicant who was hit twice in the face and then pushed to the ground from behind. While lying on his back, the applicant was struck repeatedly by one

of the offenders until police arrived and arrested all three offenders.

The applicant was taken by ambulance to hospital where it was noted that he had sustained a concussion and had no recall of the events. In addition the applicant suffered multiple lacerations to the scalp, upper lip, and mouth. Although skull x-rays revealed no fractures, he was kept overnight for observation and then discharged.

Three months later, the applicant began having difficulty with his vision along with numbness in his finger tips. A brain scan revealed a subdural hematoma, and the applicant underwent an operation in which two burr holes were drilled in the right frontal area of the skull to drain the accumulated blood. The operation was successful, and the applicant was discharged without suffering any further complications.

One offender was convicted of assault bodily harm and given 90 days. The second offender was convicted of common assault and fined \$50 while the charges against the third offender were dismissed.

The Board found the application qualified under Section 5 (a) of the Act and ordered compensation under; 7 (1) (d) pain and suffering \$5,000. 7 (1) (f) doctors reports \$478.75; solicitors fees \$250.00, for a total award of \$5,728.75.

FILE 922-010937

The applicant, a 55-year-old female garment worker, was descending the stairway into a subway station one day in downtown Toronto.

The applicant was holding onto the stair rail with one hand and her 11-year-old granddaughter with the other. As they neared the bottom of the crowded stairway, the applicant heard a male voice from behind her demand "get out of the way" followed by profanity. Before the applicant could respond, she was shoved from behind and fell down two or three steps. The applicant disappeared into the crowd before the applicant or her granddaughter could identify him.

The applicant was taken by ambulance to the hospital and it was noted that she had sustained contusions to the forehead, left leg and right knee, tenderness in the neck and pelvic areas. X-rays failed to reveal any fractures or neuro-

logical defects, and she was discharged with a tensor bandage to her knee and advised to rest.

The applicant visited her physician weekly for a month, complaining of discomfort and swelling in the affected areas and dizziness. The applicant testified she had headaches and dizzy spells for two to three months after the incident which prevented her from returning to work immediately. The Board accepted an initial four-week disability period. The applicant was advised of Section 25 of the Act, if evidence confirming a further period of disability could be provided.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being assault. Compensation was awarded under Section 7 (1) (d) pain and suffering \$800.00; and 7 (1) (f) doctors; reports \$75.00, interpreters fees \$50.00, legal fees \$225.00 and disbursements \$40.00, for a total award of \$1,928.00.

FILE 922-012991

The applicant, a 42-year-old supply teacher, and another man, the offender herein, were individually patronizing a supermarket in Agincourt.

The offender had apparently been upset at the applicant's "butting in" at the line ups in the store, and verbalized his displeasure to the applicant. Each person claimed that the other exited the store first and waited outside for the other. Regardless, a brief altercation ensued outside the store, although various witness reports have caused confusion with regard to the events which subsequently occurred.

It is clear that the applicant departed, and while walking across the parking lot, the offender took a swing at him. When the applicant raised his arms to protect himself, he knocked his own glasses off. The offender intentionally stepped on them, and kicked at the applicant. The applicant fell to the ground hitting his head on the pavement and was knocked unconscious. Employees of the supermarket called police and an ambulance, and the offender was arrested at the scene.

Upon examination at the hospital, the applicant was found to have a comminuted fracture of the upper parietal bone (*skull*) with slight separation of the fracture. He was transferred to another hospital and craniocerebral trauma was diagnosed, as was a large hematoma. Emergency

surgery was performed, the applicant being discharged three weeks later.

The applicant testified that he still suffers severe headaches, tires easily, has a less retentive memory, loses his temper more easily, and is less friendly and comfortable with other people.

A clinical psychologist's report notes that the applicant suffers from cognitive defects and personality changes, both attributable to brain injuries suffered. Referral to a psychiatrist was recommended.

The offender had a charge of aggravated assault, which was dismissed at trial.

The Board found that the applicant qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (a) ambulance, glasses, \$91.95; 7 (1) (b) lost income, \$2,015.52; 7 (1) (d) pain and suffering, \$5,000.00; and 7 (1) (f) legal fees of \$200.00 and disbursements of \$280.00. The total award was \$7,587.47.

FILE 922-013057

(Held in camera)

The applicant is the mother of the 17-year-old victim who was sexually abused over a two-year period by her step-father, the offender. During this time, the offender continually threatened the minor with injury or death to herself and the rest of the family if she told anyone about the abuse.

Once the applicant was told of the sexual abuse, she immediately took her children from the family home to a women's shelter. Later, she moved the family to a new apartment. A month after the abuse was revealed, the offender broke into their new home. When the victim arrived home the offender grabbed her, forced her to undress and to perform a sexual act upon him. The offender tied and gagged the victim and her younger brother. The children remained tied up until the applicant returned home.

The offender remained at large for over a year during which time he repeatedly phoned the family threatening to kill them. They lived in constant fear until the offender was finally apprehended fourteen months later, and subsequently sentenced to four years imprisonment.

According to a social worker's report, the effect of these events upon the victim has been pro-

found. The fear that sooner or later the offender will "get" them continues to govern much of the victim's life. She remains suspicious and anxious about being left alone. The abuse also retarded her normal sexual growth as well as that of her social skills. Her perception of normal male/female relationships has been distorted. The longterm effects cannot be predicted with certainty.

The Board found the applicant qualified under Section 5 (a), the crime of violence being sexual assault, and ordered compensation under Section 7 (1) (d) pain and suffering \$7,500.00 payable to the victim on the date when she becomes 18 years of age.

FILE 922-014780

At the time of the occurrence, the applicant was a 39-year-old psychiatric nurse in Brockville.

The applicant's husband, the victim herein, a 40-year-old truck driver, drank several ounces of poisonous methanol at a party. The methanol drink was presented to him mixed with coke or orange juice. The applicant's husband left the party around midnight and returned home. He went to work the next day but became sick to his stomach in the late afternoon. The victim was intermittently sick for the duration of the night, and the applicant decided to call an ambulance at 5:30 a.m. The victim was taken to hospital, but died shortly after 6:00 a.m. due to the ingestion of the lethal dose of methyl alcohol.

The alleged offender who provided the methanol drink was convicted of criminal negligence and given a suspended sentence and one year probation.

The applicant was found compensable under Section 5 (a) of the Act, the crime of violence being criminal negligence causing death and was awarded under: 7 (1) (a) funeral expenses \$2,200.00, babysitting expenses \$990.00, other expenses \$311.38; 7 (1) (c) applicant's net loss of income \$2,670.00; 7 (1) (f) travel expenses \$173.00 and legal fees \$400.00; for a total award of \$6,744.38.

The Board notes that the applicant has commenced proceedings in the Supreme Court of Ontario against various parties in relation to the death of her husband. Accordingly, the applicant was advised of the provisions of Section 26 (2) of the Act with regard to subrogation.

FILE 922-011096

The applicant is a 42-year-old, unemployed resident of Toronto. He brought the application on behalf of himself and his three minor children.

The victim, now deceased, was the wife of the applicant and mother of the three children. She was sexually assaulted and murdered by a stranger she had met in a tavern.

The applicant was the sole executor of the victim's estate, which received certain liquid assets and proceeds of insurance policies. In addition, the applicants received benefits under the Canada Pension Plan as a result of the victim's death. The victim had been the main support of the family.

The offender was convicted of murder.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (a) funeral expenses, food and lodging, \$4,523.00; 7 (1) (c) loss of dependency on income, \$11,770.00; and 22, legal fees, to the applicant's solicitor, \$500.00. The total award was \$16,793.00.

The funeral expenses were paid to the estate of the victim, the food and lodging award was paid to friends of the victim's family who had cared for the children after the death, and the award to the youngest child was paid to the Public Trustee and consisted of a lump sum for the time up to the hearing date, and monthly payments of \$110.00 until the child attains the age of majority.

FILE 922-014383

(Held in camera).

This application was brought on behalf of the victim by her mother. From the time the victim, a Thornhill student, was ten-and-a-half years old she was sexually assaulted by a male neighbour numerous times over a twenty-month period. The victim's older sister (FILE: 922-015072) was also a victim of similar assaults by the same offender, although she was unaware of the fact.

Following the arrest of the offender, the victim underwent extensive psychiatric counselling that involved individual and family sessions, visits to a summer camp, and a family trip to Mexico. Professional reports indicated that the victim's academic performance deteriorated and was

marked by "confusion". In addition, it was noted that the victim was emotionally traumatized by the sexual abuse and will continue at periods of her life to require therapeutic input to help her resolve some of the consequences.

The offender pleaded guilty to one count of sexual assault and one count of sexual intercourse with a female between the ages of fourteen and sixteen, and was sentenced to three months and two years probation.

The Board found the applicant qualified under Section 5 (a) and ordered \$10,000.00 pain and suffering 7 (1) (d) to be paid to the Accountant of the Supreme Court of Ontario to be held in trust for the victim pursuant to Section 36 (6) of The Trustee Act, until the victim attains the age of eighteen.

FILE 922-014380

This application was brought by the mother of the victim who was a 4-month old infant on the date of the incident.

The applicant left her London home to do some errands while her common-law husband, the offender herein, watched the victim. A short time later the applicant returned home to find that the offender had assaulted the infant.

The applicant took the victim to hospital where it was noted that he had sustained a fractured skull, intra-cerebral hematoma, and temporary cortical blindness. The victim also developed seizures which are managed by drugs.

Medical reports state that it is too early to tell whether the residual neurological findings are indicative of permanent injury or not. At the date of the hearing the victim was making an excellent physical recovery but an accurate brain damage assessment will not be possible until after the infant enrolls in school. For this reason the Board decided to wait for a full medical assessment before setting an amount for pain and suffering.

The offender was convicted of aggravated assault and sentenced to two years with a recommendation for psychiatric treatment.

The Board ordered solicitor's fee, \$400.00, and disbursements, \$391.15.

FILE 922-015200

At the time of the incident, the applicant was a 28-year-old sales representative for a furniture company in Toronto.

The applicant was driving a car, and following a Toronto Transit Commission vehicle. The two vehicles came to an intersection beyond which, traffic, travelling in the direction the two vehicles were going, was closed to all but T.T.C. vehicles. The traffic was being directed by a security guard, the offender herein. Not realizing that he was unable to proceed, the applicant started into the intersection, but stopped when the offender jumped in front of his car and told him to stop. Another security guard stood behind the applicant's car and made it impossible for the applicant to back up and leave the scene.

A verbal argument between the applicant and the offender resulted in the offender walking to the applicant's side of the car and slapping the applicant in the face. The applicant exited his car and a punching match ensued. Police were called, and the applicant was taken to hospital by ambulance as he had sustained an eye injury.

The injuries were swelling and bruising in the right upper and lower lids, a laceration just under the lower right lid, and a fracture of the right orbital floor (cheekbone). Minor surgery was performed on the eyelid two days after the assault, and the fracture was repaired.

According to an August 1982 medical report, the applicant suffers diplopia (double vision), headaches, and glare and irritation from light. As well, he experiences numbness in his right cheek, sensitivity in his teeth and gums, and his right eye is sunken 2 mm. more than the left eye. Medical reports indicate that these symptoms are permanent.

The Board advised the applicant of Section 25 of the Act with regard to any claim for lost income.

The offender was convicted of assault.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (d) pain and suffering, \$6,000.00.

FILE 922-014710

The applicant is a 40-year-old restaurant manager residing in Toronto.

One afternoon, the applicant and two other family members were stepping off a public transit bus when another passenger, the offender, grabbed him from behind. The two engaged in a brief struggle during which the offender pulled a knife and stabbed the applicant. The offender then fled the scene. No motive was ever established.

The applicant was taken to hospital by ambulance and treated for stab wounds to his upper central forehead and the base of his left palm.

Two weeks later, the applicant saw his doctor and complained of numbness and tingling in the fingers of his left hand. At that time it was determined that the applicant should undergo surgery which was subsequently performed.

Medical reports indicate that the applicant is left with some scarring and some permanent sensory and motor dysfunction in his left hand.

It should be noted that the applicant had sustained nerve damage in his right hand due to an accident that occurred in 1980.

The applicant made a claim for loss of investment in that he was forced to give up his option to buy a restaurant. However, the Board determined that prior to the assault, the applicant had not met the provisions of his contract, having failed to attain the profit margin requirements set out therein, and therefore it denied this claim. The Board advised the applicant of Section 25 of the Act with respect to income lost.

The offender was never apprehended.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (a) travel for treatment, \$75.00; 7 (1) (d) pain and suffering, \$6,000.00, and 7 (1) (f) hospital records, \$40.00, and to the applicant's solicitor, legal fees of \$250.00 and disbursements of \$215.00 for a total award of \$6,580.00.

FILE 922-014204

(Held in camera.)

At about 5:00 p.m. on a June afternoon, the twelve-year-old victim was at a neighbour's home playing with their children. The neighbour, the offender, sent his own children outside and kept the victim in the house. He then took the victim to a bathroom and sexually assaulted her.

The applicant, the victim's mother, arrived at the neighbour's home to pick up her child. When the offender became aware of this, he told the victim to say nothing or he would go to jail. The applicant who was looking for the victim saw her emerge, with the offender, from bathroom. When the victim went right to the applicant's waiting car, the applicant realized that she was upset about something. She asked her what was wrong and the victim told her everything that had happened. The applicant took the victim home, bathed her, and took her to a North Bay hospital the next morning. Hospital staff telephoned police who later arrested the offender. There was evidence that the offender had been drinking.

The victim suffered nightmares for several months and has undergone individual and group therapy to help her deal with the incident. She is now getting along quite well.

The offender was sentenced to 16 months plus two years probation.

The Board found that the applicant qualified under Section 5 (a) and ordered \$8,000.00 to be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of The Trustee Act to the credit of the victim and to be held in trust until she reach the age of eighteen. It also awarded 7 (1) (a) travel for treatment \$220.00; 7 (1) (f) travel expenses to Hearing, \$52.00, legal fees of \$350.00 and disbursements of \$69.00 for a total award of \$8,691.00.

FILE 922-013202

The applicant is a 32-year-old disability pensioner living in Thunder Bay.

In the early morning hours, the applicant and his girlfriend were asleep in his apartment when someone knocked at the door. The applicant

admitted the alleged offender and two other men, and all five then sat and drank.

Subsequently, the alleged offender and one man departed, the second man passed out on a sofa, and the applicant and his girlfriend returned to bed. Shortly thereafter, they were awakened by sounds of the apartment door being kicked in. The applicant entered the living room and, according to the testimony of his girlfriend, engaged in an argument with the alleged offender, who was brandishing two knives. The alleged offender then stabbed the applicant, went to the kitchen to clean the knife, called an ambulance and fled. The applicant's girlfriend called for police.

The applicant was taken to hospital and treated for an abdominal stab wound and a perforated bowel. Subsequent to surgery, the applicant developed an infection and suffered a collapsed right lung, both of which were appropriately treated. The abdominal wound re-opened and had to be repaired. The applicant was discharged from hospital in three weeks. The applicant was left with a long surgical scar on his right abdomen.

The alleged offender was charged with aggravated assault. However, the applicant's girlfriend, the lone witness, did not appear at trial and the judge dismissed the charge.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (d) pain and suffering, \$2,000.00 and, 7 (1) (f), to the applicant's solicitor, legal fees of \$300.00 and disbursements of \$257.56, making the total award \$2,557.56.

FILE: 922-011515

At the time of the incident, the applicant was a 47-year-old hairdresser in Toronto.

The applicant met a young woman, the offender herein, in a bar and drove her to a motel where he registered under a false name and gave a fake license plate number. The applicant testified that during the course of the evening, he and the offender got into an argument, where-upon he was stabbed in the neck and robbed by the offender who subsequently fled from the scene.

The applicant was transported by police to the hospital where he was treated for a soft tissue injury to the back of his neck and was released

the next day. Eight sutures were required to close the stab wound.

Several months after the assault, the applicant developed discomfort in his neck and numbness in his chest and left shoulder. After examination, the doctor opined that these problems were due to post-traumatic neurosis. As a result of the shoulder pain, and an inability to raise his arm for longer periods of time, the applicant can no longer work as a hairdresser and has gone on welfare.

During the police investigation, the applicant told his wife a completely different story from what he had told police. The applicant and his wife both refused to give police their fingerprints, and thus the police were unable, by process of elimination, to determine which set of fingerprints in the applicant's car, belonged to the offender. Consequently, the investigation was unsuccessful.

The applicant and his wife divorced in 1984.

The Board cited Sections 17 (1) and 17 (2) of the Act and declined to award compensation.

FILE 922-014945

The victim, a 17-year-old female, was stabbed to death in Hamilton by her estranged common-law husband. The offender was the father of a three-month old son born to the victim.

The applicant is the mother of the victim and has cared for the child since the time of his mother's death. The applicant had interim custody of the child at the time of the hearing and the courts have yet to decide on permanent custody.

The offender was convicted of manslaughter.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (a) funeral expenses, \$2,500.00 7 (1) (b) periodic payments for maintenance of the child, \$2,880.00 and 7 (1) (f) to the applicant's solicitor, legal fees of \$300.00 and disbursements of \$35.00. The total award was \$5,715.00.

The periodic payments are in the form of monthly instalments of \$160.00 until the child attains the age of majority (*April 10, 2003*) or until he is adopted.

FILE 922-015072

(Held in camera).

The application was brought by the mother of the 13-year-old female victim. The victim and her 11-year-old sister (#922-014383) had developed a close relationship with a couple with two young children who lived next door to the applicant in Thornhill. The victim babysat for the couple and spent much of her spare time at their house visiting with them and their children.

After approximately a year-and-a-half of various incidents of sexual assault, the victim revealed these assaults by the husband next door, the offender. It was also revealed that the offender's twin brother had sexually assaulted the victim as well. The offender had also assaulted the victim's younger sister and when her younger sister revealed those incidents to her parents, the victim could no longer keep the incidents in which she had been involved to herself.

The victim underwent severe emotional trauma and has needed to see social workers and medical doctors in her attempts to deal with these assaults. She continues to have psychological problems and documentation presented indicates that long-term treatment will be necessary.

The offender was sentenced to three months, put on probation for two years and ordered to leave the vicinity. The other offender was placed under a peace bond.

The Board found that the applicant qualified under Section 5 (a) and awarded compensation under 7 (1) (a) expenses, \$1,055.00. The victim was awarded \$10,000.00 under Section 7 (1) (d) pain and suffering. The Board also awarded legal fees of \$600.00 and disbursements of \$720.00 for a total award of \$12,380.00.

FILE 922-010724

The applicant was a 52-year-old male who lives and works in Oshawa, and operates a summer business with his wife in Callander. While driving with his wife on Highway #11 on a spring day, the applicant caught up to a slow moving vehicle which sped up when the applicant attempted to pass.

The applicant managed to pass the vehicle, but the vehicle then stayed very close behind the applicant's car and flashed its high beams off

and on. Apprehensive, the applicant pulled into a road side restaurant outside of which he saw a police car parked. The applicant got out of his vehicle, but was attacked by the offender, the driver of the vehicle he had just passed. The applicant was struck in the face, fell, and was then kicked. The offender was arrested by police on the spot.

The applicant and his wife went to a hospital where he received three sutures around his left eye. He also suffered a bruised right upper arm and a hematoma (*concentration of blood*) just above his right elbow which caused decreased strength and considerable pain in the right arm. Three months later, the applicant complained of numbness in his right arm and received cortisone injections after seeing specialists because of the pain. Three months later still he had median nerve decompression surgery on his right arm. The applicant testified that he still experienced pain and discomfort and his family doctor wrote that these problems will not likely disappear entirely.

The applicant missed time at work and was forced to hire someone to do the work at his summer business, which he would ordinarily have done himself.

The offender was convicted of assault causing bodily harm.

The Board has recommended investigating the possibility of recovery pursuant to Section 26 (2).

The Board found that the applicant qualified under Section 5 (a) and awarded 7 (1) (a) travel for treatment and expenses not covered by OHIP, \$125.00; 7 (1) (b) lost income, \$2,652.00; 7 (a) (d) pain and suffering, \$5,000.00; and 7 (1) (f) hired help and travel expenses to Hearing, \$3,563.00, legal fees of \$600.00 and disbursements of \$218.00 for a total award of \$12,158.00.

FILE 922-014546

At approximately 8:30 p.m. one early summer evening, the applicant, a 39-year-old order clerk was in her Caledon home with her 13 year-old-son when she heard both a strange noise and her son yelling. She left her bedroom to investigate, and was confronted by her daughter's ex-boyfriend. The offender cornered the applicant in the hall, threatened to kill her, and began stabbing her with a pocket knife. The applicant fled into a bathroom where she managed

to evade the offender, but shortly thereafter she ventured back to her bedroom in order to call police. The offender reappeared and cut the telephone wires before leaving the house. Neighbours, alerted by the applicant's son, escorted the applicant out of the house and called an ambulance.

At hospital it was noted that the applicant had sustained multiple lacerations to the scalp, neck, and left shoulder which were sutured. In addition, she suffered two deep stab wounds to her neck and back which caused her lungs to collapse. A chest tube was inserted, the lungs were reexpanded, the wounds were sutured and she was discharged eight days later.

The applicant was prescribed analgesics and sedatives and eventually returned to work two months after the occurrence. However, she complained of pain and numbness in her left shoulder and had difficulty carrying heavy objects. More significant were the applicant's psychological injuries resulting from the trauma. She underwent extensive psychiatric counselling in an attempt to deal with the post traumatic stress incurred as a result of the assault. Medical evidence indicates that the year following the assault was very difficult for the family. The family home had to be re-decorated, and at the date of the Hearing the applicant and her husband had decided to sell the house.

The offender was convicted of attempted murder and sentenced to five years in prison.

The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (a) home nursing \$500.00, net hospital expenses \$250.00, hotel \$128.00, drugs \$70.00; 7 (1) (b) loss of income \$413.01; 7 (1) (d) pain and suffering \$10,000.00; 7 (1) (f) psychiatric counselling \$1,194.00, travel expenses to Hearing \$28.00, legal fees and disbursements \$1,115.00 for a total award of \$13,698.99.

FILE 922-015210

The applicant, a 43-year-old dress shop owner, was working in her store in Toronto. The applicant observed a female shoplifter in action, and confronted her with an accusation. When the applicant informed the shoplifter that the police had been called, she was suddenly hit with a fist on the back of the neck by the shoplifter's male accomplice.

The male accomplice fled the scene, while the

offender proceeded to punch and kick the applicant in the face and body, hit her with a ceramic vase, banged the applicant's head against a wall and attempted to strangle her. The applicant's screams alerted neighbours who came to her assistance and detained the offender until the police arrived.

The applicant was treated for lacerations on both ear lobes, bruising on the neck, chest, back and right arm, a strained left wrist and thumb, trauma of the bladder resulting in incontinence and burning on urination, and trauma of the left eye causing flashes of light. The applicant's physical injuries resolved, and she returned to work full-time one month after the incident.

The applicant testified that she still suffers from bladder incontinence, muscle tension in the neck and nervousness. She continues to take medication for her bladder, nerves and to sleep.

The offender was convicted of assault and sentenced to four months imprisonment.

The Board found the application qualified under Section 5 (a) of the Act and ordered compensation under Sections 7 (1) (a) new eyeglasses \$175.00; 7 (1) (b) loss of income \$664.83; 7 (1) (d) \$4,000.00; and 7 (1) (f) legal fees \$100.00, for a total award of \$4,939.83.

FILE 922-012734

One summer evening, the applicant, a 38-year-old tire repairman, was walking home from a local store in Windsor. As he proceeded through an alleyway, two men suddenly appeared and asked the applicant for a cigarette. The applicant complied with the request, but became nervous when the men began questioning him, and he started to run away.

As he did so, one of the men, the offender, chased after the applicant, stabbed him in the right side and attempted to trip him. The applicant managed to make his way out of the alley and asked several passersby on the street for assistance. The offenders fled the scene and the passersby summoned the police and ambulance.

The applicant was taken to the hospital, where it was noted he had a two-inch long stab wound in the right lower quadrant of the abdomen. The wound appeared to be deep so an exploratory laparotomy was performed. The surgery revealed multiple lacerations of the small bowel,

cecum and intestine which were sutured, and the small bowel resectioned. The applicant remained in intensive care for three days and was discharged from hospital in two weeks, returning to work two months later.

The applicant attended a physician for a post-operative examination complaining of diarrhea which was treated with medication. He continues to suffer with this problem and still requires medical management. In addition, a stitch abscess in the abdominal incision was discovered, and the stitch was subsequently removed. The applicant testified that he still experiences pain in the area of the wound which limits his activities, particularly in lifting. A medical report also suggested the possibility of further surgical revision if bowel adhesions developed, and the Board advised the applicant of Section 25 of the Act.

The offender was convicted of aggravated assault and robbery and sentenced to 15 months reformatory plus 18 months probation.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being assault. Compensation was ordered under Sections 7 (1) (b) loss of income \$2,000.00; 7 (1) (d) pain and suffering \$5,000.00 and 7 (1) (f) legal fees \$250.00 and disbursements \$382.00, for a total award of \$7,682.00.

FILE 922-013400

The applicant was a 27-year-old pastoral student residing in Kitchener.

One summer evening, the applicant was walking through a park when three men jumped him and attempted to rob him. They punched and kicked him in the face, body and left arm, and fled.

The applicant was taken to hospital and treated for minor bruising and a severe fracture of his left elbow. The fracture required three operations of open reduction surgery with an internal fixation. Unfortunately, the break was so severe that a solid union of the bones was not obtained, and the arm is seriously disabled resulting in limitation of movement and constant pain. The applicant has some weakness in his left hand and numbness in the 4th and 5th fingers of his left hand.

The applicant also suffered emotional trauma, anxiety, depression, insomnia, digestive problems and a hiatus hernia. Three months of counselling was required for the depression and anxiety, which are both expected to continue for some time. The applicant requires medication for depression, insomnia and the hiatus hernia.

No offenders have been apprehended.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (a) ambulance, \$22.00; 7 (1) (d) pain and suffering, \$7,500.00, and 7 (1) (f) travel expenses to Hearing \$81.90 and to the applicant's solicitor, legal fees of \$300.00 and disbursements of \$518.70. The total award was \$8,122.60.

FILE 922-014342

The applicant is a 51-year-old male, residing in Kenora.

At approximately 10:30 p.m., the applicant was sitting in the bar of a local hotel. The female offender approached him and told him to buy her a beer. The applicant refused, whereupon the offender punched the applicant in the mouth causing his bottom denture to displace. The denture fell to the floor and broke in three places.

The applicant left the bar and went to a police station to report the assault. Police arrested the offender.

The applicant did not seek medical attention, but did require new dentures.

The offender was convicted of assault bodily harm.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (a) dentures, travel for treatment, meals, \$285.92, 7 (1) (b) lost income, \$41.28, 7 (1) (d) pain and suffering, \$300.00, and 7 (1) (f) to the applicant's solicitor, legal fees of \$250.00 and disbursements of \$1.00, making the total award of \$878.20.

FILE 922-015639

(Held in camera.)

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was an 18-year-old waitress from British Columbia who, at the time of the incident, was residing with her aunt in Scarborough.

Early one evening in January, the applicant was returning to Toronto by bus after having visited a friend in Barrie. While on the bus, the applicant struck up a conversation with a male passenger, the offender herein. He pretended to be unfamiliar with Toronto and asked the applicant to show him around parts of it. After seeing some areas, the offender asked the applicant if she knew of any hotels, as he planned on staying in Toronto for the evening. The applicant took the offender to a Queen Street west hotel and accompanied him to his room under the impression that he would drop off his luggage and then escort her to a subway station.

Once in the room, the offender pulled a knife and threatened to kill the applicant if she did not do all that she was told. During the night and the next morning, the applicant was subjected to a variety of sex acts and at one time was choked severely by the offender. The applicant complied with these demands as she feared for her life.

At 6:00 a.m. after convincing the offender that her aunt would be worried about her, the applicant was able to return to her aunt's home. There she contacted police. The police took the applicant to hospital where she was treated for bruising to her breasts and neck area. The sexual assault was confirmed by internal examination. The applicant was very tense and underwent considerable emotional trauma when being examined, and even today has difficulty communicating with males. She immediately returned to her parents' home in British Columbia.

The offender was convicted of sexual assault though three other charges were dismissed.

As the applicant did not submit documentation for lost income and flight expenses, the Board cited Section 25 and noted that compensation could be considered if proper documentation was provided.

The Board found the applicant qualified under Section 5 (a) and awarded compensation under Section 7 (1) (d) pain and suffering, \$7,500.00.

FILE 922-015431

The application was brought by the mother of the victim, then a 14-year-old student and part-time paperboy.

At approximately 6:30 a.m., the victim was delivering newspapers in an apartment building in London. He saw the offender, a 27-year-old carrier from another newspaper whom the victim had met previously, and subsequently, the offender joined the victim while he was finishing his route. As they proceeded along the basement hallway, the victim was attacked from behind by the offender, who attempted to strangle the victim with the cord of the newspaper bundles.

The assault was interrupted by the arrival of a tenant, causing the offender to flee. The tenant rushed the victim to hospital.

At hospital, the victim was noted as having petichiae (*purple hemorrhagic spots*) from the neck to the top of the head. Linear abrasions appeared on the neck and middle finger of the right hand. He also had significant bilateral hemorrhages in the membrane of both eyes, although no retinal damage or visual impairment was evident. The victim was kept overnight in the hospital for observation and released home due to his anxieties. The victim and his mother made several visits to a psychologist to deal with the traumatic nature of the assault.

The victim testified that his neck and facial injuries resolved after two weeks and the ocular hemorrhages disappeared one month after the incident. He was absent from school for two weeks and felt too nervous to return to his paper route until seven months later. The applicant was also absent from her employment for 1½ weeks due to the need to care for the victim during his recuperation. The Board deemed the victim and applicant compensable for their lost income over these periods of time.

The offender was convicted of attempt murder and sentenced to 10 years imprisonment.

The Board found the application qualified under Section 5 (a) of the Act and awarded compensation under: Sections 7 (1) (b) victim's loss of income \$959.11; 7 (1) (d) pain and suffering \$7,000.00 and 7 (1) (f) legal fees \$350.00 and the applicant's loss of income \$354.90, for a total award of \$8,664.01. The Board ordered the sum of \$7,000.00 to be

held in trust by the Accountant of the Supreme Court of Ontario until the victim attains his majority.

FILE 922-014219

(Heard in camera.)

The applicant is the sister of the deceased victim, who was separated from her husband, and had their two sons living with her in London. The victim's boyfriend was charged with the murder, which involved both stabbing and shooting of the victim on January 6, 1985.

The applicant's mother paid \$300.00 of the \$2,630.60 for funeral expenses and the remainder was still owed to the funeral home.

The father of the two children, aged four and seven, had little to do with them in the time between the separation of the parents and the murder, and consequently, the applicant legally adopted the two children. The father still provides some financial support for the children.

The Board found that the legal fee for the adoptions was a reasonable expense incurred as a result of the victim's death, and that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (a) adoption expense and funeral expenses, \$3,170.12.

FILE 922-012189

The applicant, a 24-year-old male, was staying with his sister at their parent's home while their parents were on vacation. The applicant had been told that his sister's boyfriend, the offender, was not to be allowed entry.

However, at 8:10 p.m. one summer evening, the offender presented himself at the front door. When the applicant told him he was not welcome, the offender took exception and pushed the applicant to the floor and proceeded to break a vase over the applicant's head. The applicant lost consciousness, and his sister phoned police.

The applicant was taken to hospital by ambulance. There, it was noted that he had sustained a depressed fracture of the left frontal area of the skull, numbness in his right hand, and had four teeth knocked out. He was

discharged a week later after being prescribed medication to prevent seizures.

The applicant was readmitted to hospital the following month complaining of hemorrhoids and a rash. He underwent numerous tests until it was discovered that he was allergic to his medication. A different drug was prescribed, and the applicant was discharged a week later. Subsequent medical examinations revealed that the applicant had slight facial palsy, numbness in the second and third right fingers, slurred speech, and difficulty expressing thoughts. Two months later, the applicant was given a certificate of impairment to entitle him to welfare assistance.

The Board found the applicant qualified under Section 5 (a) and awarded compensation under 7 (1) (a) expenses, \$276.60; 7 (1) (d) pain and suffering, \$9,000.00; 7 (1) (f) legal fees and expenses, \$525.40 for an award of \$9,802.00.

As anticipated in the original Order, a Variation Order under Section 25 six months later authorized dental expenses of \$150.00 and future dental payments of up to \$6,000.00 for a total award of \$15,952.00.

FILE 922-011679

The 36-year-old applicant was a self-employed composer, performer, and designer of musical instruments.

About 9:45 p.m. one July evening he was strolling along the beach, as was his usual habit near his home when he came upon a group of youths sitting by a bonfire and drinking. One youth invited the applicant to join the party and he accepted the offer. Suddenly and for no apparent reason, one of the youths punched the applicant in the neck. He attempted to escape but was caught, kicked and punched by four of the youths. He was able to break free, but was chased, caught and beaten again.

In all, three separate chases and beatings occurred during which the applicant was robbed of his wallet and wrist watch. Neighbourhood residents finally came to his aid, telephoned police, and were able to restrain three of the four offenders until police arrived.

The applicant was taken to hospital and treated for laceration to his lips and extensive dental damage. The extraction of one upper middle

tooth and subsequent bridge work was required.

Two offenders received sentences after being found guilty of assault, one 60 days, the other four months. Another received 14 days for possession of stolen property. The fourth alleged offender received an absolute discharge on assault and robbery charges.

Prior to the Hearing, by virtue of Section 14, the Board awarded \$3,337.00 for emergency dental treatment.

The Board found that the applicant qualified under Section 5 (a) and awarded 7 (1) (a) dental expenses, drugs, x-rays, doctor's bills, \$844.90; 7 (1) (d) pain and suffering, \$4,000.00; and 7 (1) (f) doctor's reports, \$20.00. In addition, the Board ordered the payment of \$3,200.00 for dental expenses and \$300.00 for legal fees for a total award at this Hearing of \$8,364.90.

FILE 922-015499

On Christmas Eve, the applicant, a 49-year-old hotel owner in Cambridge, was working in the hotel bar when she was obliged to ask a belligerent customer to leave at 1:30 a.m. as the bar was closed. The applicant had had problems with the same customer a few days earlier for the same reason, and this time she decided to escort him to the door.

As they approached the door the offender became verbally abusive and threw the applicant to the floor where he proceeded to kick her about the abdomen, ribs and shoulders. The applicant's screams brought her husband out from the back of the hotel, and they managed to subdue the offender until police arrived and arrested him.

The applicant, who was recovering from a stroke, did not seek medical attention because of the holiday season. However, by the following March, the pain and the limited movement in her left shoulder encouraged her to get medical treatment. She was then put on a course of physiotherapy and steroid injections for what was diagnosed as a "frozen shoulder". By the following January her range of shoulder movement had improved, but the medical reports indicate that physiotherapy, muscle relaxants, and analgesics were not really of substantial benefit to the applicant.

The prognosis suggests that the applicant's shoulder will continue to cause her pain and limit her mobility. Her left rotator cuff may undergo some degeneration and though a surgical procedure with a 95% success rate is a possibility, the applicant is a diabetic and could experience serious side-effects. At the date of the Hearing, the applicant testified that she still experiences pain in her shoulder and her work and sports activities have been curtailed.

The offender was convicted of common assault and received a conditional discharge and six months probation.

The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (a) drugs, \$372.86, travel for treatment, \$1,679.00, parking, \$41.50; 7 (1) (d) pain and suffering, \$11,500.00; 7 (1) (f) travel expenses to the Hearing, \$48.50, legal fees and disbursements, \$695.75 for a total award of \$14,307.61.

FILE 922-015662

The applicant was a self-employed salesman of educational books who was returning to his car after having patronized a fast food establishment.

While walking past a club from which party goers were leaving, the applicant was approached by a well-dressed man who asked the applicant for a cigarette. Not having any, the applicant advised the man of the location of an all night drugstore. A second man, who appeared to be an acquaintance of the first, then arrived on the scene. The first man pleaded with the applicant to drop him off at the drugstore on his way home and the applicant agreed to do so, but only him.

As the applicant and his passenger began to drive away, the second man opened a car door and began punching the applicant in the face. The passenger also joined in, the car went out of control, crossed the sidewalk and then hit another parked car. Police were called and one offender arrested. The other offender, the passenger ran from the scene, but was pursued by witnesses, caught, and held for police.

The applicant was taken to hospital where tenderness in the cervical region, a contusion to the right cheek, and a superficial laceration and contusion to the left temple, a small burn to the second digit on his right hand and a swollen and abraded left knee were diagnosed. He was treated and released.

The applicant complained of neck pain and discomfort over a period of 17 months and began showing signs of depression arising from the injury and disability. There was also pain in his left knee, and he was finally referred to an orthopaedic surgeon. The specialist's report concluded that the problems would subside and no particular treatment was indicated. The applicant testified that he still suffers pain in his knee and neck area, and bouts of depression and paranoia.

The applicant was advised of the provisions of Section 25 with respect to a claim for lost income.

The first offender did not appear at trial and a bench warrant is outstanding. The second offender was sentenced to 12 months in jail and 12 months probation.

The Board found that the applicant qualified under Section 5 (a) and awarded compensation 7 (1) (d) pain and suffering, \$7,000.00 and 7 (1) (f) doctor's reports, \$160.00, legal fees of \$400.00 and disbursements of \$968.00 for a total award of \$8,528.00.

FILE 922-012492

At approximately 1:00 a.m., the applicant, a 24-year-old student, and his two friends were leaving a hotel tavern in Kitchener, after an evening of pool playing. Prior to leaving the hotel, the applicant purchased a rose for his girlfriend and was carrying it with him as he departed.

Three men, unknown to the applicant, were leaning against a vehicle in the hotel parking lot and directed an insult at the applicant who ignored it and proceeded to walk past them. Suddenly, one of the assailants punched the applicant knocking him to the ground, while another stabbed the applicant three times. The assailants fled, and the hotel management summoned police and ambulance.

At the hospital, the applicant was found to have abrasions to the head and both knees, a superficial stab wound below the right armpit and two deep stab wounds to the left chest at the level of the diaphragm and left upper quadrant. A laparotomy was performed which disclosed a broken rib and penetrated abdominal membrane (*peritoneum*) but no damage to any vital organs was observed. The applicant's wounds

were debrided and sutured and he was discharged a few days later.

The applicant underwent an unremarkable recovery, and all injuries were resolved after approximately two months. He testified that the wounds still cause some discomfort and he continues to visit a family doctor on a weekly basis. The applicant remains nervous and fearful and continues to take tranquilizer medications. The applicant was advised of Section 25 of the Act in regards to medical costs not covered by O.H.I.P. He has also dropped out of school as a result of his fear of returning to Guelph where the offender lives.

The offender was convicted of assault and sentenced to twelve months imprisonment.

The application was found qualified under Section 5 (a) of the Act and compensation was ordered under Section 7 (1) (a) drugs \$38.02 and ambulance \$22.00; 7 (1) (d) pain and suffering \$5,000.00 and 7 (1) (f) net loss of income to attend hearing \$160.00, travel expenses to hearing \$28.00, legal fees \$300.00 and disbursement \$35.00, for a total award of \$5,583.02.

FILE 922-012970

One August evening, the applicant, a 51 year old hair stylist, was cooking dinner for himself and two tenants who lived in his Toronto home. Around 5:00 p.m. both tenants went out and bought beer which they brought back to the applicant's house and began consuming on the patio. After the tenants had consumed the beer they left to pick up some wine. They returned and talked with the applicant on the patio while consuming the wine.

The applicant left the patio to use the washroom around 10:45 p.m. and, as he was returning, he met one of the tenants, the offender, in the kitchen. The intoxicated offender suddenly knocked over a collection of antique kitchenware the applicant displayed on a shelf. When the applicant became upset, the offender picked up a 12" butcher knife and stabbed the applicant twice in the left side of the chest, shouting "I'm going to kill you!". The applicant staggered out of the house and spotted a passing police cruiser.

The applicant was transported to hospital by police and underwent an operation to explore the profuse internal bleeding from a left

midsternal chest wound and the mass bleeding from a right midchest wound. One stab wound lacerated the internal mammary artery and was ligated. The other wound formed a hematoma, but no major arteries were damaged. The applicant was discharged from hospital seven days later, but over the next several months he experienced severe chest pains, anxiety, insomnia and pain to his left shoulder. He was prescribed analgesics, sleeping pills and tranquilizers.

In addition his left shoulder was diagnosed as a frozen shoulder and required acupuncture and physiotherapy. However, the applicant still experiences pain and limited movement in the left shoulder, chest pains and ongoing nervousness.

The offender pleaded guilty to aggravated assault and was sentenced to six years incarceration.

The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (a) drugs, \$118.25, chiropractic services, \$321.00; 7 (1) (d) pain and suffering, \$8,000.00; 7 (1) (f) transportation, \$19.08 for a total award of \$8,458.33.

FILE 922-015394

(Heard on documentary evidence.)

The applicant was a 61-year-old retired lady living in Toronto. At approximately 9:00 p.m., she was walking home from a grocery store when she encountered an alleged offender who suddenly grabbed the applicant's purse which was hanging from her left arm. The offender then ran off with her purse. Police were notified, but their search of the area was fruitless.

The victim did not seek medical attention for her left wrist which was injured when the purse was snatched. She treated it by soaking her wrist in salt and water and wearing a tensor bandage. The applicant testified that she was "in shock" for ten days and is nervous about going out alone.

The offender was never apprehended.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (d) pain and suffering, \$500.00.

FILE 922-014676

[Heard In Camera]

The applicant, a 35-year-old loans officer, resided in London, Ontario. At approximately 11:30 p.m. she and a friend proceeded to a club where they ordered drinks and stood by the stand-up bar. The offender, an unknown 38-year-old male, approached the applicant and asked her to dance. The applicant agreed to dance with him and did so until the bar closed. Before leaving the bar, the offender asked the applicant if she would accept a date with him for the following night. The applicant, although initially reluctant, accepted the invitation after some encouragement from her girlfriend.

The next night, at approximately 8:00 p.m., the applicant met the offender at a restaurant and accepted a later invitation for coffee at his studio.

When they arrived at the apartment, the offender's twin brother was there and an argument ensued between the two men in a foreign language which the applicant could not identify. The applicant feeling somewhat frightened and awkward, informed the offender that she was leaving.

The offender suddenly rushed to the door and locked it, declaring that she would not be allowed to leave until she had sex with him. When she refused, he grabbed her by the arms and punched her repeatedly in the face and head. He continued to punch her insisting that they were going to make love or she would have to perform fellatio. After an unsuccessful attempt at removing the applicant's clothes, the offender forced her to perform oral sex upon him. Eventually the offender released her.

The applicant attended her family physician the next day and told him about the assault. A medical report attested to the applicant's extensive bruising to the face and scalp and her severe emotional state. Despite the applicant's fears, her doctor encouraged her to report the incident to the police. Initially the applicant felt the trauma of reporting the assault would be too much for her, but after further persuasion by her doctor, she eventually did so a week later. The offender was arrested and charged.

The applicant's physical injuries were quickly resolved. However, she required extensive continuing psychotherapy and medication for treatment of severe anxiety and depression.

The offender was convicted of sexual assault and sentenced to 2½ years imprisonment.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being sexual assault. Compensation was ordered under, Sections 7 (1) (a) drugs \$537.35, replacement of glasses \$83.95 and 7 (1) (d) pain and suffering \$12,000.00, for a total award of \$12, 621.30.

FILE 922-011565

[Hearing on documentary evidence.]

The application was brought by the sister of a 67-year-old single man who was murdered.

The victim is alleged to have been strangled by the offender and died of asphyxiation. The offender was charged with second degree murder, and disposition of the charge is pending.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being murder. Compensation was awarded under Section 7 (1) (a) funeral expenses \$2,200.00.

FILE 922-014400

The applicant, a 24-year-old waiter/bartender, was helping the offender, his fiancée's father, feed his horses on a farm outside Windsor.

At approximately 3:00 p.m. the applicant accompanied the offender to the barn for the purpose of feeding the horses at which time the offender detected a rat in a grain bin. The offender instructed the applicant to go inside the bin and flush the rat out with a broom. The offender then briefly left the scene, returning with a .22 calibre rifle, and started firing at the rat. The applicant testified that he heard only one shot and realized he had been shot in the head. The applicant then walked back to the offender's residence, bleeding profusely from the head wound and was taken to hospital by the offender.

A CAT scan indicated a wound in the left frontal region of the skull (*spendoid bone*), and a craniotomy was performed which revealed a large haemorrhage where the bullet had lodged, along with considerable dead brain tissue. The applicant's recovery was slow and gradual and a follow up CAT scan showed residual changes in the left frontal region.

The applicant was discharged ten days later but was readmitted the next day for a possible abscess formation which was resolved with massive doses of antibiotics. The applicant was finally discharged two weeks later.

The applicant testified to dizziness, headaches, and diminished sense of smell. In addition, the applicant required glasses to correct blurry vision and was prescribed an anti-convulsant, in order to prevent post-trauma epileptic seizures. Over the next two years, the applicant was unable to work and his convalescence included numerous neuro-psychiatric tests and counselling.

While the medical reports indicated a guarded prognosis for a good final outcome, the applicant continued to exhibit signs of personality/intellectual deterioration, impaired visual motor co-ordination, irritability, memory loss, severe headaches, apathy, and insomnia.

The offender was convicted of careless use of a firearm and fined \$500.00.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being careless use of a firearm and awarded compensation under Sections 7 (1) (d) pain and suffering \$6,000.00 7 (1) (f) legal fees \$300.00, for a total award of \$6,300.00. For the pain and suffering award the applicant was paid \$1,200.00 in a lump sum and 24 monthly payments of \$200.00.

An investigation is being made into possible recovery of the award from the offender pursuant to Section 26 (2) of the Act.

FILE 922-013026

The applicant, a 20-year-old material handler, was the passenger in a friend's car which had stopped at an intersection on a street in downtown Toronto.

While preparing to make a left-hand turn, several people walked in front of the vehicle, and the offender hit the hood of the car with a motorcycle helmet he was carrying. The driver sounded his horn and ordered the offender and his friends to move from in front of the car. The offender responded by moving to the driver's side of the car and threatening to smash the windshield with his helmet.

The applicant jumped out of the car and the offender proceeding to the passenger-side, reached into his jacket and pulled out two small screwdrivers, and assumed a karate stance. Fearing that an attack was imminent, the applicant attempted to flee, but was slashed by the offender on his buttocks and back. A struggle ensued, and the applicant received additional slashes to his forehead, across the bridge of his nose, right cheek, right armpit and chest. The police arrived on the scene, arrested the offender and escorted the applicant to the hospital.

The applicant's superficial lacerations were cleaned and bandaged. The chest wound required five stitches to close. The applicant's family physician subsequently removed the stitches. Other than superficial scars on the forehead, nasal bridge and chest, no permanent disability was noted.

Approximately two years later, the applicant went to see a psychologist. He complained of irritability and excessive drinking which had caused a split with his girlfriend of four years, sexual impotency, nightmares, excessive weight loss and distrust of others. The doctor diagnosed the applicant with post traumatic stress disorder and severe depression and anxiety. The applicant testified as to these symptoms at the Hearing, but has failed to seek out any further psychotherapeutic intervention.

The applicant was off work for one week during his convalescence, and his claim for lost wages was deemed compensable by the Board.

The offender was convicted of aggravated assault and weapons dangerous and was sentenced to a total of four months imprisonment on the two charges.

The Board found the application qualified under Section 5 (a) of the Act, and compensation was ordered under Sections 7 (1) (a) drugs \$13.89; 7 (1) (b) loss of income \$277.15; 7 (1) (d) pain and suffering \$6,500.00; and 7 (1) (f) other pecuniary losses \$3.62, legal fees \$350.00 and disbursements \$575.00, for a total award of \$7,719.66.

An investigation is being made into possible recovery of the award from the offender pursuant to Section 26 (2) of the Act.

FILE 922-013535

One fall evening, the applicant, 74 years old, was in her home in London when two male youths, the offenders herein, knocked at the side door. When she answered the door, the offenders forced their way into the house and demanded to know where her money was. She told them.

One of the offenders produced a knife and stood by the victim, while the other retrieved her purse. After ordering her to be quiet, the offender with the knife stabbed the applicant four times in the abdomen. The force of the blows caused her to fall down the six or seven basement stairs and hit her head on the basement door. The two assailants then fled.

The victim crawled up the stairs and telephoned police and was taken to hospital. A laparotomy revealed two lacerations to the right side of the liver, superficial serosal (*membrane*) tears to the transverse colon and a small serosal laceration to the anterior surface of the stomach. Two days after surgery, while the applicant was recovering, she suffered a cardiac arrest, which was attributable to a pulmonary embolus (*clot*). The cardiac arrest procedure resulted in a fractured sternum and six fractured ribs.

The victim was released from hospital three weeks later to recuperate at home. The applicant suffered nightmares for about a month after the incident and still suffers from tenderness and a burning sensation along her incision. She is afraid to go out alone at night or answer her door when she is alone at home.

The offenders, one of whom was a Young Offender, were convicted of robbery.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (a) ambulance, prothesis and air travel for two family members, \$663.95; 7 (1) (d) pain and suffering, \$5,000.00 and 7 (1) (f) Air Canada search fee \$10.00 for a total award of \$5,673.95.

FILE 922-015185

The applicant is a 41-year-old assistant scheduler with a steel company. One early summer evening, the applicant, his wife and one of his wife's girlfriends were walking along a Hamilton street after attending a movie.

As they walked past a house, five young men, the offenders who were drinking in the house's veranda, yelled obscenities at them. The applicant and his companions ignored them and continued walking. The offenders then came after the applicant, knocked him down from behind and proceeded to kick and punch him. A neighbour, a witness to the assault, called the police, who apprehended one of the offenders.

The applicant was taken to hospital by police. He complained of pain all over, particularly in the testicles, lower back and right index finger. The applicant was given analgesics and told to see his family doctor. The family doctor noted an abrasion on the scalp, dizziness, pain in the right temple, numbness and twitching on the right side of the face, burning sensation in the right eye, pain in the right side of the neck radiating down the right arm to the hand, tenderness in the neck, shoulders and arms, pain in the mid lumbar spine, right leg, flank and groin as well as a swollen right knee. Heat, muscle relaxants and analgesics were used for treatment. An ophthalmologist was recommended and subsequently seen.

The applicant attempted to return to work a week after the occurrence, but due to pain, was unable to continue. He was then sent for physiotherapy for a one-month period. Three months later the applicant began suffering from bowel incontinence. Five months later he was complaining of burning pain behind his right eye, blurred vision in the right eye, abdominal pain, numbness in the fourth right finger, pain in the groin area and right leg, right knee and lower back, difficulty getting an erection and stomach pains with sexual activity. He was also suffering from nightmares about the assault.

The applicant saw three specialists for these diverse ailments and the medical opinion was that they were a result of the psychological trauma of the assault. It was recommended that he see a psychiatrist. The applicant testified that he intends to see one. The offender apprehended was convicted of assault.

The Board found that the applicant qualified under Section 5 (a) and awarded compensation under Section 7 (1) (b) lost income, \$1,500.00; 7 (1) (d) pain and suffering, \$5,000.00; 7 (1) (f) legal fees of \$400.00 and disbursements of \$325.00 for a total award of \$7,225.00.

FILE 922-013533

The applicant, a 19-year-old unemployed male, attended a party at his friend's residence in Sudbury. Around midnight he met a man, the alleged offender, whom he had never seen before.

After consuming about six beers with the alleged offender, the applicant suggested that they go to another party. They were there only for a short time when the alleged offender began behaving strangely. Suddenly and without provocation the alleged offender slapped the applicant in the face knocking him down. He then punched the applicant in the mouth and fled.

Another friend drove the applicant to the hospital where he was given ice, analgesics, and advised to see a dentist. The following morning the alleged offender phoned the applicant and apologized for the assault and offered to pay for the damage. He then drove the applicant to a dentist who examined his mouth and reported that it would be necessary to extract two teeth and insert a fixed bridge at a cost of \$1,875.00. However, the alleged offender was unable to pay the cost of the dental work.

The applicant did not heed his solicitor's advice and refused to report the incident to police. Accordingly, the Board, having regard to Section 17 (2), declined to make an award. Solicitor's costs of \$169.33 were awarded under Section 22 of the Act.

FILE 922-014607

(Held in Camera.)

The applicant, a 20-year-old waitress in a Kitchener bar was approached by a male friend and his two male friends.

At approximately 1:00 a.m., the applicant accepted her friend's offer of a ride home feeling she had nothing to fear as he had always treated her well. The applicant got into a car with the three men, but instead of taking the applicant home they drove her to a nearby apartment.

Once at the apartment, the three men refused to let the applicant leave and sexually molested her. They ransacked the apartment. The three men then took the applicant back to the car and drove to a house.

As they pulled into the driveway, the applicant escaped from the car but she was chased down a back alley by the three men who caught her and took her into the house. Shortly thereafter, the homeowner told the three men to leave, and they took the applicant to the residence of one of the offenders. At this point one of the unknown offenders proceeded to sexually assault her. After the offender ceased his assault, the applicant managed to climb out a second story window onto a porch roof.

By this time the police, summoned by neighbours, arrived and arrested the offenders in a struggle that ensued after they broke down the front door. The applicant was taken to the police station where she gave a statement and went home. Because the offenders were connected with a motorcycle gang and considered very dangerous, the applicant was moved out of town where she remained for six months. Indeed, the applicant was approached twice and told not to testify at trial, which resulted in a separate third party conviction for obstructing justice.

The offenders pleaded guilty to sexual assault and unlawful confinement, and were sentenced to five years, two years, and twenty-two months respectively.

The Board drew the applicant's attention to the provisions of Section 25 and encouraged her to get in touch with the Board again should she have further expenses related to this occurrence.

The Board found the applicant qualified under Section 5 (a) and awarded compensation of 7 (1) (b) net loss of income, \$4,500.00; 7 (1) (d) pain and suffering, \$10,000.00 for a total award of \$14,500.00.

FILE 922-014367

(Held in camera).

This application was brought on behalf of the 15-year-old victim by her mother. The victim came to Canada when she was 10 years old and lived with her father who was separated from her mother. From the time of her arrival in Canada until she fled to her mother's home five years later, the victim was subjected to physical abuse by her father. She was sexually abused as well during the two years before she sought refuge with her mother.

The victim has been receiving counselling from the Children's Aid Society for two years following

her report of the abuse. The social worker's report indicated that the victim was making a good recovery, but she will always be emotionally scarred. The need for future therapy is a real possibility and the Board drew the applicant's attention to the provisions of Section 25 re the payment for such therapy upon receipt of proper documentation.

The victim's father was convicted of incest and assault causing bodily harm and sentenced to five years in prison. The offender also received five years consecutive for similar convictions relating to the victim's younger sister. (*File #922-014368*).

The Board found that the victim qualified under Section 5 (a) and ordered the payment of \$8,000.00 to the Accountant of the Supreme Court of Ontario to be held in trust for the victim pursuant to Section 36 (6) of the Trustee Act until she attains the age of 18 years. It also authorized the payment of \$45.00 other pecuniary loss 7 (1) (f) as well as legal fees of \$200.00 and disbursements of \$105.00 for a total award of \$8,350.00.

FILE 922-013485

The applicant, 32 years of age and a carpenter, resided in Kitchener, Ontario in a second floor of a house that had been converted to apartments. The applicant also had the porch on the main floor designated for his use.

At approximately 9:00 p.m. the applicant was sitting in a chair on the porch and having a drink. At the same time a party was occurring in the main floor apartment of the building. Apart from lending some music tapes, the applicant had not participated in the party.

About two hours later, an individual attending the party came out on the porch, and for no apparent reason proceeded to kick the applicant in the mouth, causing the applicant's upper denture to break and dislodge in his mouth. Falling to his knees, attempting to free the denture from his mouth, the applicant was kicked twice more in the head, in the area of the ear, and the right eye.

Upon the arrival of the police, the offender was arrested and the applicant was taken to hospital. The injuries sustained were: a cerebral concussion, a contused right eye, and a possible fracture of the nose. Three days of observation in the hospital were required and sutures were

necessary to repair the right eyelid. The injured eye remained sensitive to light for eight weeks. The broken dentures were repaired, but if this is not satisfactory, they may need to be replaced.

The investigator noted that due to an extreme state of inebriation, the applicant was unable to give a coherent statement at the scene. As a result of the applicant's state, it was necessary to place him in the intensive care unit of the hospital.

The offender was convicted of assault causing bodily harm. The Board found that the application qualified under Section 5 (a) of the Act and ordered compensation under Section 7 (1) (a), ambulance \$22.00 medication \$7.94, repair work to full upper denture \$23.00, 7 (1) (b) lost wages \$320.00, 7 (1) (d) pain and suffering \$1,000.00, 7 (1) (f) return bus fare x two (Kitchener-Toronto) \$38.00, two day's pay \$120.00 for a total award of \$1,530.94.

FILE 922-015010

At approximately 3:25 a.m., the applicant, a 58-year-old part-time night caretaker, was working at a highway restaurant service centre in Port Hope. He noticed an unknown man leaving through the back door of the kitchen, followed, and noticed another man standing beside a parked car. As he attempted to re-enter the restaurant, he was jumped from behind by a possible third accomplice.

The applicant was punched in the head, face and shoulders and knocked to the ground where he received further blows. The applicant feigned unconsciousness and the offenders fled. The applicant returned to the gas bar, and an attendant called the police.

The applicant drove himself to the hospital where it was noted he had multiple contusions and abrasions to his face, head, shoulders, knee and hands. An x-ray revealed a comminuted fracture of the nasal bones which did not appear grossly displaced. He was treated with anti-inflammatory and analgesic medication, a cervical collar and advised to attend his family physician before being discharged. A doctor's report indicated that the applicant's physical injuries resolved within three weeks, but he continued to experience acute situational anxiety and insomnia for five months after the occurrence.

The loss of income from two weeks absence at work was deemed compensable by the Board.

The assailants were never apprehended.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being assault and compensation was ordered under: Sections 7 (a) (b) loss of income \$604.00; 7 (1) (d) pain and suffering \$2,000.00 and 7 (1) (f) doctor's reports \$100.00 and travel expenses to hearing \$51.00, for a total award of \$2,755.00.

FILE 922-013252

The applicant, a resident of Massey, was a 60-year disability pensioner who did some part-time welding work.

The applicant and his wife (*file 922-013253*) had as guests, the offender, his common-law wife and her two children. The adults were drinking and conversing when an argument broke out between the two wives and it developed into a physical fight.

The applicant told the offender his wife must cease assaulting the applicant's wife, whereupon the offender struck the applicant on the chin, causing him to fall to the floor. Although the applicant was unsure of subsequent events, he believed that he was hit and/or kicked again. The applicant's wife also received injuries as a result of her altercation with the offender's wife.

The offender, his wife and the two children departed, and the applicant's wife phoned the police and an ambulance and both were taken to hospital in Espanola.

The applicant was kept in hospital and then transferred to a Sudbury hospital. A bilateral fracture of the mandible (*jaw bone*) was diagnosed and the applicant was told to return to hospital when the swelling around his jaw had subsided. The applicant returned to Sudbury the following week and was admitted the next day. Surgery, including the wiring of his jaw and the removal of two teeth, were performed. A wound infection later appeared and was treated.

Three weeks later, x-rays taken at an Elliot Lake hospital revealed further displacement of the applicant's mandible and the following month, he was sent to a Toronto Hospital for rewiring of his jaw, where he remained one week.

The applicant returned to the Toronto hospital two months later to undergo a bone graft from

his hip to replace bone lost by the infection, and to stabilize mobility of his mandible.

At a subsequent date, the applicant had his remaining teeth removed and full upper and lower dentures made. Surgery to ensure a proper fit of the lower dentures may still be required. The applicant was advised of Section 25 of the Act.

The charges against the offender were dismissed at trial.

The Board found that the applicant qualified under Section 5 (a) of the Act and awarded compensation under Sections 7 (1) (a) dental expenses, drugs, ambulance, crutches, travel for treatment, and other expenses of \$1,954.40, 7 (1) (d) pain and suffering \$3,000.00, 7 (1) (f) travel expenses to hearing \$30.00. In addition, the Board awarded the applicant's solicitors \$150.00 legal fees and disbursements of \$250.00, for a total award of \$5,384.40, under Section 7 (1) (f).

FILE 922-013370

The applicant, a 22-year-old shipping clerk, went to a friend's Toronto house after midnight to play cards. Also present were two unknown males, the offenders herein. They proceeded to play euchre with the applicant and his friends.

Approximately 30 minutes later, the offender became irate when the applicant uttered an epithet after one of the offenders made what the applicant considered a "stupid play". A few minutes later, one of the offenders got up, casually walked behind the applicant and attacked him, the other offenders quickly joining in the assault.

The applicant fell to the floor and was repeatedly kicked and punched about the face and chest.

The police arrived and arrested both offenders after a brief struggle. The applicant was taken to hospital where it was noted that he had sustained a fractured mandible, bruises to the body, and dental damage. The fracture was treated conservatively, and the applicant was discharged. He made an uneventful recovery with respect to the jaw fracture. However, the applicant required root canal surgery and minor oral surgery to repair damage to his upper right central incisor. The applicant was off work for two days.

Each offender was convicted of assault causing bodily harm and sentenced to 60 days in jail and

two years probation. In addition each offender was ordered to pay \$800.00 restitution which at the date of the Hearing had not been paid.

The Board found the application qualified under Section 5 (a), of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under; 7 (1) (a) dental expenses \$872.42; 7 (a) (b) net loss of income \$212.16; 7 (1) (d) pain and suffering \$2,200.00; 7 (1) (f) doctor's reports \$95.00, legal fees \$250.00 for a total award of \$3,629.59.

FILE 922-015298

The victim herein is a 3-½ year old boy and the application was made on his behalf by his father. The victim, his parents and older sister reside together in Elliot Lake.

The victim's parents were both at work, his sister was at school, and he was in the care of a live-in babysitter, the offender herein, who had been hired to care for both children when the parents were working.

During the course of the day, the offender had thrown the victim against a coffee table in what she described as a "disciplinary" action. The offender telephoned the applicant at work and told him that the victim had fallen and hurt his leg. The applicant then notified his wife who went home and, after telephoning her doctor, took the child to hospital by ambulance.

The victim was found to have a spiral fracture to the shaft of the femur in his left leg. The victim required nine weeks in traction and was not comfortable or confident walking for 4-5 months after being taken out of traction. The victim also suffered emotional trauma, was concerned about being left alone at night, and had a distrust for female babysitters. The doctor's report indicates that the victim can expect full recovery and the prognosis is good.

The offender was convicted of assault bodily harm and aggravated assault and was given a suspended sentence with one year probation and direction for counselling and treatment. The second charge is a result of a spanking, with a stick, that the offender had given the victim the day before the leg was broken.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (a) travel expenses to hearing and benefit of victim,

\$125.00; 7 (1) (d) pain and suffering \$2,500.00; and 7 (a) (f), to the applicant's solicitor, legal fees of \$300.00; and disbursements of \$150.00. The total award was \$3,075.00.

The pain and suffering award was paid to the Accountant of the Supreme Court of Ontario to be held in trust for the victim until he attains the age of 18.

FILE 922-014109

(Heard in camera).

The applicant, an 18-year-old female car wash attendant, was working late one night when the offender, a 19-year-old male, entered through the back door at approximately 11:00 p.m. The offender surprised the applicant, knocked her to the ground, then proceeded to sit on her and choke her. He lifted her off the floor and forced her into a washroom where he sexually assaulted her.

When the applicant's employer telephoned the car wash during the assault and received no answer, he drove over and arrived approximately ten minutes after the start of the assault. When he arrived, the offender released the applicant and fled. Police were then called.

The applicant was then driven to hospital where she was treated for multiple contusions to the face, neck, and body. It was noted that the force used in choking the applicant was severe enough to have caused hemorrhaging of blood vessels in both eyes. She went through the procedures of the rape kit protocol and was discharged.

The applicant followed up treatment with her family physician who prescribed tranquillizers to combat severe emotional trauma and post traumatic stress. She was also given counselling at a local rape crisis centre. The applicant felt able to return to work after one month. However, after approximately one year, she felt compelled to quit when her employer would occasionally leave her on her own to lock up at closing time. The medical prognosis indicated that the applicant would feel nervous effects for a number of years and be emotionally scarred for life.

The offender was convicted of both sexual assault and choking and was sentenced to an undetermined prison term after being legally declared "A dangerous sexual offender". He also

received seven years concurrent on the choking conviction.

The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (d) pain and suffering, \$10,000.00; 7 (1) (f) travel expenses, \$50.00, legal fees and disbursements, \$650.00 for a total award of \$10,700.00.

FILE 922-013022

This application was brought by the mother of the victim. The victim, a 25-year-old hotel bouncer, began consuming beer at noon as he travelled to Peterborough to visit friends. The victim later attended at a friend's cottage with several other people where they continued to consume beer. Late in the evening the victim was in a fight with another man which was eventually broken up by the host who held the victim at bay with a shotgun. The host and the remaining guests then walked into the cottage to phone police and take refuge from the victim.

The victim then forced his way through the front door of the cottage and was shot in the chest by the host. The victim succumbed to his injuries 5 weeks later. The host was charged with second degree murder but was acquitted by a jury.

Having regard to section 17 (1), the Board dismissed the applicant's claim because of the victim's direct contribution to his death. However, it did award compensation of \$28.00 representing cost of travel to the Hearing.

FILE 922-015067

At approximately 10:00 p.m. in early August, the applicant, a 26-year-old-Metropolitan police officer, was on duty and stationed at the Caribana Festival on Toronto Olympic Island.

Part of the crowd at the festivities was becoming unruly, and the manager of one of the concession stands asked the applicant to investigate two men who were harassing an employee guarding his van. When the applicant approached the van, he observed two men rolling a marijuana cigarette and attempting to distract the employee while they looked in and around the van. The applicant attempted to arrest the two men for possession of marijuana, but one of them managed to run away.

The applicant grabbed the struggling second offender by the arm and pushed him against a

barrier. Suddenly, the detained man held the applicant by the wrists and yelled, "Stab him, stab him". The applicant turned to see who was behind him and observed the first offender, who had returned to the scene, stab him in his right back and flee. The applicant fell to his knees, but managed to hold onto the second man's legs. The man proceeded to punch the applicant in the head until he was restrained by several other officers who came to the applicant's assistance.

The applicant was given emergency first aid, but could not be removed from the island by ferry because a rioting group was blocking the bridge. The applicant was eventually carried on a stretcher into the water by several officers in order to get to a waiting boat.

The applicant was transported by ambulance to the hospital with a three-inch horizontal stab wound to the right lower back. An exploratory laparotomy was performed through an incision in the abdominal region but no internal hematomas or organ damage was discovered. The applicant's post-operative recovery was complicated by several infections which required the reopening of sutures and open drainage of the wounds. The applicant was discharged from hospital in nine days, but received daily home care for several weeks after the occurrence.

Five weeks after discharge from hospital, the applicant's family physician treated another wound infection which had developed, and noted that the applicant was experiencing abdominal and back pains and difficulties in completing daily tasks. He returned to full work duties a month later. However, he testified that since the stabbing, he has been unable to regain his full physical capacities and continues to experience pain when exercising. He also suffers emotional trauma from the incident, fear of crowds, nightmares, and mood swings which have adversely affected his social life and job performance.

Both offenders were convicted of aggravated assault and sentenced to five years and two years less a day imprisonment respectively.

The Board found the applicant qualified under Section 5 (a) and awarded compensation 7 (1) (a) expenses, \$22.00; 7 (1) (b) loss of income, \$900.00; 7 (1) (d) pain and suffering, \$7,500.00; 7 (1) (f) other pecuniary losses, \$525.00 and legal fees of \$350.00 for a total award of \$9,325.00.

FILE 922-016020

(Held in camera.)

The application was brought before the Board by the victim's social worker.

The victim was a fifteen-year-old girl who had been sexually assaulted by her father over a five-year period and by her older brother over a two-year period.

Sexual assault charges were brought against both the victim's father and brother.

The Board found the victim qualified under Section 5 (a) and ordered \$9,500.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of The Trustee Act to the credit of the victim to be held until she reach the age of 21 years. It also awarded legal fees of \$350.00 and disbursements of \$68.00 for a total award of \$9,918.00.

FILE 922-014189

The applicant, a 35-year-old unemployed male, attended a Toronto after-hours pub at 1:00 a.m., after drinking beer for 4 hours at a local hotel. There, the applicant drank beer and socialized with two unknown males despite the fact that he is subject to seizures and is not supposed to use alcohol.

At approximately 3:00 a.m., the applicant left the pub and was followed outside by the aforementioned two males who confronted the applicant on the sidewalk and demanded his money. When he refused to hand over his money, the applicant was pushed to the ground and had his head smashed against the sidewalk. The two males then dragged him to a nearby street lamp and proceeded to wrap the applicant's right leg around the pole until it broke at the ankle.

The two males robbed the applicant and fled but police apprehended one of them a short distance away. The applicant was taken to hospital by ambulance. It was noted that he sustained a laceration to his head, which was sutured, and a severe comminuted fracture of his ankle. The ankle fracture required open reduction surgery with internal fixation in an attempt to reconstruct the ankle joint. The applicant was placed in a full leg cast for six weeks which was then exchanged for a weight bearing cast that was worn another six weeks.

The applicant returned to hospital nine months later for one week for surgery to remove the internal fixation, and the leg was again placed in a cast for six weeks. This was followed by 39 physiotherapy sessions.

One of the two assailants was apprehended and convicted of robbery and sentenced to 12 months imprisonment.

It was impossible to fully reconstruct the ankle which is still deformed and causes the applicant persistent pain. Osteoarthritic changes have been noted and future surgery is a possibility.

The Board found the application qualified under 5 (a) of the Act, the crime of violence being assault and ordered compensation under Section 7 (1) (d), pain and suffering \$3,000.00.

FILE 922-013885

The applicant, a 32-year-old male police officer, was attempting to transfer a prisoner, the offender herein, from the investigative office to the booking cells in Scarborough. A scuffle ensued and the offender kicked out, violently, knocking the applicant to the floor. The applicant reached out to grab the prisoner's ankle, but the prisoner's foot caught the applicant on the right side of his hand.

The applicant was taken to hospital and it was determined he had suffered a fracture to his hand (*the neck of the fifth metacarpal*). A plaster slab was worn for two days and then a splint for several weeks. A month later a medical report indicated that the fracture was healed and good grip and rotation had returned.

The offender was charged with assault bodily harm but the charge was dismissed.

The Board found that the application qualified under Section 5 (a) of the Act, the crime of violence being assault and ordered compensation under Section 7 (1) (d) pain and suffering \$600.00.

FILE 200-9258

The applicant, a 32-year-old self employed businessman, was returning to his east end Toronto home after work and was attacked from behind as he entered the house. He testified that he was kicked, punched, rendered unconscious and

robbed of \$5,000.00 worth of jewellery and \$1,000.00 in cash.

The following morning a delivery man saw the applicant's front door ajar and heard the applicant calling for assistance. The injured applicant was discovered in the basement of his house and police and ambulance were summoned.

The applicant was taken to the hospital and diagnosed with a central nervous system injury which caused speech and writing difficulties, paresthesia in the right hand and dysfunction of the right leg. However all x-ray, C.T. Scan and E.E.G. tests proved normal and the applicant was discharged in two weeks. He received physiotherapy treatment for seven months. One year later, the applicant's speech and co-ordination were improved but still less than normal. A subsequent medical report concluded that the applicant had been left with permanent neurological damage, but he was advised to return to work and did so in another few months.

A police investigation at the scene of the assault revealed evidence of a struggle throughout the house. Bottles of liquor were found in the kitchen. An open package of marked cards were also discovered in the living room, but the applicant denied ever using the cards in a serious gambling game.

The police interviewed the applicant in the hospital on two separate occasions, and he claimed he had no enemies and could only provide a vague description of the assailants. However, when the applicant was interviewed three months later, he became uncooperative and stated he no longer wanted the police to continue the investigation. The applicant indicated he knew who the attackers were, but would not disclose their names or motive for the assault. The applicant denied making this statement to the police at the Board Hearing. The police concluded that, in their opinion, a card game at the applicant's house had precipitated the occurrence and that the applicant could identify his assailants.

The Board took into consideration the serious nature of the assault and injuries, but also recognized the total circumstances of the occurrence and the evidence of the investigation submitted. The Board concluded that in accordance with Section 17 (2) of the Act, the applicant had failed to satisfy the Board that he had provided rea-

sonable co-operation with the police investigation and therefore declined to make an award.

This Order was appealed by the applicant and the appeal was subsequently dismissed by a decision of the Divisional Court of Ontario.

FILE 922-015487

The applicant, a 19-year-old college student, was walking along the street to her Ottawa residence around 8:00 p.m. one February evening when she was approached by an unknown male.

This man requested directions, and when she was unable to be of assistance, he suddenly struck her in the face and forced her into a truck. The applicant was then forcibly confined, sexually assaulted, beaten, and finally left to die in a snowbank outside the city the following evening. When the applicant regained consciousness, she made her way barefoot to a nearby service station to seek assistance.

The applicant was taken to hospital where it was noted that she had sustained multiple lacerations to her scalp which took three hours to suture, frostbite to both feet, multiple contusions, burn marks to the neck, a fractured fourth right finger, a fractured fourth metacarpal of the left hand, and a damaged temporomandibular joint (*jaw*). She spent two weeks in hospital recovering from her physical injuries and was then transferred to the psychiatric unit where she remained for treatment of post traumatic stress syndrome for two months.

The applicant was forced to take a year off school, but she eventually returned to college with a reduced work load. She testified that she still undergoes weekly psychiatric treatment and monthly dental treatment for her jaw.

The offender pleaded guilty to attempted murder and sexual assault and was sentenced to ten years for the first offence and five years consecutive for the second.

The Board found the applicant qualified under Section 5 (a) and awarded compensation under 7 (1) (a) expenses, \$1,265.33; 7 (1) (d) pain and suffering, \$12,900.00; 7 (1) (f) legal fees and disbursements, \$960.05 and as well as the applicant's father's travel expenses, \$200.00 for a total award of \$15,325.38. The pain and suffering award was divided into a lump sum of \$7,500.00 and 12 monthly payments of \$450.00.

FILE 922-014005

The applicant, a 44-year-old government employer, was in his apartment in Ottawa, when his son, the offender, arrived and an argument ensued.

Without warning, the youth drew a knife and stabbed the applicant in the chest and hand. The offender fled the scene, but was subsequently taken into custody and charged with attempt murder.

According to documentary evidence, the offender had a history of emotional difficulties in coping with the relationship with his father.

The applicant was treated at the hospital for a three cm stab wound to the anterior chest and a three cm laceration to his right hand. He was immediately taken to the operating room where he underwent an exploratory mediastinotomy which revealed a puncture hole in the left ventricle of the heart and partial collapse of both lungs. A chest tube was inserted and the stab wound was closed. The laceration to his right hand was sutured and placed in a cast for one month. The applicant remained in the hospital for ten days; his chest was sore for three months. Post-operative examinations indicated an uneventful recovery with no continuing problems, except for some lingering emotional trauma as a result of the occurrence.

The applicant remained off work for five months. Lost wages were covered by sick benefits, but he did incur medical costs in excess of amounts covered by O.H.I.P.

The offender was convicted of attempt murder and sentenced to two years less a day imprisonment.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being attempted murder and compensation was awarded under Section 7 (1) (a) net hospital expenses \$30.70 and 7 (1) (d) pain and suffering \$5,000.00, for a total award of \$5,037.00.

FILE 922-014447

The applicant, a 24-year-old university student, was working in his father's coffee shop in Toronto. At approximately 1:30 p.m. he heard his father yelling for help.

The applicant ran to the front of the coffee shop and saw his father lying on the floor being kicked by two men. He pulled one man off his father but he was knocked to the ground by the other man, who proceeded to kick him over the left eye and right ribs. The assailants fled in a car and started driving away. The applicant ran behind the car in order to get the licence plate number. He was spotted by the two men in the car which prompted them to get out of their vehicle and again assault the applicant.

Police were called, and the applicant was taken to hospital where he was treated for a laceration to his forehead, and abrasions to the ribs and both knees. The applicant was released from hospital but a temporary loss of hearing in the left ear and emotional distress interfered with his school performance. The applicant testified that it was 3-4 months before he felt healed. The charges of assault against one alleged offender were dismissed while the other offender was convicted of assault and fined \$350.00.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being assault, and ordered compensation under: 7 (1) (a) for drugs \$36.70; 7 (1) (d) pain and suffering \$2,000.00 for a total award of \$2,036.70.

FILE 922-014973

(Held in camera.)

During the early hours of a July morning, the applicant, a 48-year-old temporary office worker, was sleeping in the basement apartment of the home of her sister and brother-in-law who had gone away for the weekend. She was awakened by sounds from the main floor of the house and went upstairs thinking that the family had returned unexpectedly. When she called out as she approached the kitchen, the light was turned off. Realizing there was an intruder present she ran outside screaming but tripped and fell. The offender followed her and dragged her back into the house and blindfolded her with tape. Over the next three hours he ransacked the house looking for valuables, dragging her from room to room with him. He also sexually assaulted her. Since the offender had picked up a knife from the kitchen the applicant testified that she feared for her life. When he departed, the applicant waited a few moments and then called police.

The police took the applicant to a local hospital's rape crisis centre. The applicant's physical injuries were not severe but she required counselling at the rape crisis centre and psychiatric treatment. She suffers from sleeping difficulties, and anxiety and fear regarding the possibility of attacks on herself or her daughter. The assault has also caused a loss of confidence, anger and frustration. One early attempt at returning to work failed because of a severe emotional reaction. She has now changed her place of residence and returned to work. The applicant impressed the Board as determined to overcome her problems.

Since the applicant, who had not seen her attacker, was unable to identify his voice from police tapes the offender was never apprehended.

The Board found that the applicant qualified under Section 5 (a) and awarded compensation under 7 (1) (a) expenses, \$530.00; 7 (1) (d) pain and suffering, \$9,000.00; and 7 (1) (f) travel expenses to Hearing, \$20.00 for a total award of \$9,550.00.

FILE 922-011243

The applicant is the widow of a 34-year-old labourer who had attended a Toronto tavern where he had been befriended by a couple.

All three drank and conversed during the course of the evening. When the victim started to dance with the woman, the offender became upset and an argument erupted between him and the victim. The confrontation resumed on a street outside the hotel and turned into a physical struggle. The offender then produced a hunting knife and stabbed the victim several times in the chest. He fled, but was subdued by some witnesses to the fight.

Police arrived quickly and transported the victim to hospital, where he was pronounced dead on arrival.

The offender was convicted of second degree murder and sentenced to life imprisonment with no eligibility for parole for ten years.

The applicant, a 34-year-old house cleaner, sought funeral expenses and lump sum support payment to alleviate her increased financial burden. The Board found the applicant qualified under Section 5 (a) and awarded 7 (1) (a) funeral expenses \$2,500.00; 7 (1) (c)

dependents pecuniary loss \$8,500.00; 7 (1) (f) travel expenses to Hearing \$40.00; and legal fees and disbursements \$321.50 for a total award of \$11,361.50.

FILE 922-015036

The applicant was a 37-year-old male nurse at the Kingston Psychiatric Hospital. During the afternoon shift, the applicant and a colleague approached a patient, the offender herein, who was behaving uncontrollably, to administer some medication.

When the offender was told he would lose privileges if he continued to misbehave, he struck the applicant on the face, knocking him down. A call for assistance was made, and it took six male nurses to subdue the offender. During the scuffle, the offender struck the applicant on the face a second time, breaking his right jaw and cheekbone.

The applicant went to hospital by taxi and, in addition to the two broken facial bones, it was noted that one tooth had been knocked out, and others loosened. Surgery was performed with an open reduction, and wiring of the jaw.

The applicant missed six weeks of work. Dental work continued for a further five months. The applicant experienced extensive trauma, lost confidence and recurring bad dreams. Consequently, the applicant quit his job of 18½ years at the Kingston Psychiatric Hospital, and sought other employment.

The offender was convicted of assault.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (d) pain and suffering, \$4,500.00 and 7 (1) (f) travel expenses to hearing, \$54.00, making the total award, \$4,554.00.

FILE 922-015021

At approximately 4:00 p.m., the applicant, a 23-year-old data analyst, was in attendance at a football game in Toronto.

Prior to the game the applicant had consumed ten ounces of vodka during brunch with friends. At the game, he drank two beers and began to feel ill. The applicant proceeded to the washroom and vomitted. He left the washroom,

feeling very weak, and crouched down leaning against a corridor wall in order to regain his strength. A plainclothes police officer saw the applicant and arrested him for being drunk in a public place. The applicant was subsequently handcuffed and taken to a police van stationed outside the stadium. Two other men were already in the van in an intoxicated state.

As the applicant sat in the van, the other two men began to rock the van back and forth and make a lot of noise. The applicant asked them to stop it, which focused the men's attention on the applicant. The two men, who were not handcuffed, began kicking and punching the applicant into unconsciousness.

Several more people were put in the van until it held a total of seven occupants. As the van was being driven to the police station, the two offenders and a third occupant began beating the applicant once again. When the occupants of the van disembarked, the police noticed the applicant was injured and immediately transported him to the hospital.

The applicant sustained abrasions and bruises over his face and scalp and some left-sided cost overtebral (*ribs*) tenderness. Bilateral sub-conjunctival (*membrane of eye*) hemorrhages were noted and also mild epigastric and genital tenderness. Blood was found in the applicant's urine. An intravenous pyelogram was done, but it failed to show any urinary tract blockage.

The applicant testified that he suffered headaches and difficulties sleeping for the first month. He was also absent from work for five days.

Three offenders were convicted of assault causing bodily harm and sentenced to 27 days incarceration and 2 years probation; 30 days incarceration and 2 years probation, and the third offender received a suspended sentence and 2 years probation.

The Board found the application qualified under Section 5 (a) of the Act, the crime of violence being assault causing bodily harm. Compensation was ordered under: Sections 7 (1) (a) loss of income \$210.00; 7 (1) (d) pain and suffering \$3,000.00 and 7 (1) (f) hospital records \$50.00 and photocopies \$4.70, for a total award of \$3,264.70.

FILE 922-012274

At the time of the incident, the applicant was 53-years-old, the widowed mother of nine children, who lived in Kingston.

The applicant's 14-year-old daughter was beaten to death by the 57-year-old offender who had been a boarder at the applicant's family home. There appeared to be no motive for the murder. The offender was apprehended, but committed suicide in jail while awaiting trial.

The family's tragedy was compounded by the death of one of the applicant's sons in a traffic accident one week later.

The applicant found that her home and surroundings contained too many memories. Consequently, she moved to Brockville. A year later, she moved back to Kingston into a new home.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (a) funeral expenses, \$1,677.00; 7 (1) (b) lost income, \$1,000.00; and 7 (1) (f) travel to Hearing, \$133.00 and to the applicant's solicitor, legal fees of \$350.00 and disbursements of \$35.00. The total award was \$3,195.00.

The Board found that there was no demonstrable evidence that the applicant sustained mental or nervous shock as envisaged pursuant to the provisions of Section 1 (1) (d) of the Act, and therefore, declined to make an award in this regard.

FILE 922-015648

(Held in camera).

The applicant, a 63-year-old widow, was awakened an early summer morning by the offender. A young man had broken into her Windsor apartment.

The offender surprised the applicant in her bedroom, smothered her face with a pillow, removed her night gown and sexually assaulted her for two hours before he fled. The applicant then left her apartment to obtain assistance. The police were called, and she was taken to hospital.

The applicant was treated for contusions and abrasions to her neck, breasts, rib cage and thighs. In addition, her vagina was torn and bruised and a rape kit was administered. Most of the applicant's injuries resolved after two

months with the exception of her vaginal injuries which continue to give her problems. The applicant also suffered severe emotional trauma and anxiety which limited her social life and forced her to leave Windsor to live elsewhere. Unrelated medical problems have interfered with the resolution of the emotional trauma. The applicant attended a sexual assault crisis centre more than 30 times for counselling; extensive counselling in the future is still recommended.

The offender pleaded guilty to sexual assault and breaking and entering and sentenced to two years in prison.

The Board found the applicant qualified under 5 (a) and awarded 7 (1) (a) ambulance \$22.00; 7 (1) (d) pain and suffering \$6,500.00; 7 (1) (f) travel expenses \$163.00; legal fees of \$350.00 and disbursements of \$260.00 for a total award of \$7,295.00.

FILE 922-011553

Since the applicant had twice failed to appear at scheduled Hearings, the application was heard on documentary evidence pursuant to Section 7 of the Statutory Powers Procedure Act.

The applicant was a 63-year-old disability recipient who resided in Hamilton, Ontario. At approximately 1:15 a.m. while staying at a Salvation Army Hostel, the applicant was awakened by a man (*the offender*) in a bed next to his own. The offender threatened the applicant and then, unprovoked, punched the applicant in the mouth. Police were called to the hostel.

The applicant sustained a minor cut to his lower lip and a cut to the inside of his mouth. There was no medical treatment and the injury healed on its own.

The offender was convicted of assault. The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (d) pain and suffering \$50.00.

FILE 922-014223

The application was brought by the wife of the victim, a 42-year-old machinist, who died on June 9, 1984, in Guelph.

The victim was temporarily separated from the applicant at the time of the incident and was

living at a rooming house owned by his nephew, the offender.

In the early hours of the morning, the victim and several other boarders were sitting on the front porch of the house consuming a considerable amount of alcohol. The offender arrived at the house in a highly intoxicated state and began arguing with one of the boarders. A brief struggle ensued and then the offender departed saying to the others that he was going to bed.

Shortly thereafter the victim and other boarders on the porch heard an explosion and saw fire coming from inside the house. The victim and several other men entered the house in order to put out the fire and to find the offender who they believed was still inside. As the victim attempted to remove a gasoline can engulfed in flames in the living room, he was overcome by smoke and burns. The victim collapsed and was later discovered dead by firemen.

The offender, who intentionally set fire to the house, was convicted of manslaughter and sentenced to one year in jail.

The Board found the application qualified under Section 5 (a) of the Act, and compensation was ordered under Sections 7 (1) (a) funeral expenses, \$2,500.00; 7 (1) (c) dependant's net loss of income \$7,000.00 and 7 (1) (f) legal fees \$300.00 and disbursements \$44.00, for a total award of \$9,844.00.

FILE 922-014934

The applicant is a 67-year-old retired man, living with his 95-year-old mother in London.

One summer morning, the applicant was in his kitchen preparing breakfast when the offender knocked at the side door and asked to use the applicant's telephone.

Once admitted into the house, the offender brandished a pistol, struck the applicant a number of blows about the head, took him to the bedroom, shot him in the left shoulder and tied him up. The applicant's mother was also tied up. The offender then took the applicant's wallet and fled in the applicant's car which was later found abandoned a short distance away.

The applicant notified police and was subsequently taken by ambulance to hospital. He was treated for lacerations about his head and for the gunshot wound to his shoulder. A medical

report indicated that the applicant underwent a period of considerable personal distress at that time.

The offender was convicted on a number of counts including robbery and unlawful confinement and received seven years imprisonment.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under Section 7 (1) (d) pain and suffering, \$2,500.00 and 7 (1) (f), to the applicant's solicitor, legal fees of \$300.00 and disbursements of \$62.75, making the total award of \$2,862.75.

FILE 922-013716

At the time of the incident the applicant was 33-years-old, a Toronto resident, and employed by a porcelain fixture company. He rents the upper floor of his residence to a tenant, the offender herein.

One week prior to the incident, the applicant served the offender with an eviction notice for non-payment of rent. At approximately 5:00 p.m. the applicant went to ask the offender when he intended to leave the premises. The offender reacted by striking the applicant over the head with an unlit "molotov cocktail", and then punching him on the face, head and body. The applicant was also bitten in the forehead. A second "molotov cocktail" was lit, thrown and a fire ensued. Police and firemen were summoned.

The applicant was taken to hospital by ambulance, where injuries noted were multiple cuts and bruises to his face, neck, forehead, left wrist, both knees and anterior chest, and some superficial burns. The applicant was treated for bruises, required some suturing for lacerations, was given a tetanus toxoid injection and released.

Two weeks later, the applicant saw his family doctor, and significant edema (*fluid accumulation*) was noted in his right cheek and upper right eyelid; the applicant was also depressed. Medical opinion is that the mental trauma and depression would be life-long.

The offender was convicted of assault, level 1.

The Board found that the application qualified under Section 5 (a) of the Act and awarded compensation under: Section 7 (1) (b) lost income, \$97.00; 7 (1) (d) pain and suffering,

\$2,500.00; and 7 (1) (f) income lost to attend hearing, \$30.00; and to the applicant's solicitor, legal fees of \$300.00 and disbursements of \$137.75, making the total award, \$3,064.75.

FILE 922-014830

The applicant is a 69-year-old housewife, who was at her Toronto apartment with her husband of 56 years, the offender herein. They had been experiencing difficulties in their relationship.

On this particular evening, an argument erupted which quickly escalated into a physical confrontation. The offender became enraged with the applicant, and took a paring knife from the kitchen and proceeded to stab the applicant approximately 50 times about the face, neck, chest, and both arms. The offender then proceeded to beat the applicant about the head with a hammer until the handle broke.

At this point the offender left the applicant unconscious on the floor, took an overdose of pills, and collapsed in the bathroom. He survived. The applicant and offender were discovered eight hours later by the building manager who notified police.

The applicant was taken to hospital in a semi-conscious state. X-rays revealed a fractured nose, left cheek, mandible, and left long finger. The applicant's stab wounds were sutured and her condition stabilized. The following week, she underwent an open reduction of her facial fractures and a closed reduction of her finger fracture. She was discharged a month later. The applicant made a partial recovery from her physical injuries, but she still suffers from dizziness and pain in her jaw. The applicant testified that she is also emotionally disoriented as a result of the assault.

The offender who moved to Montreal, was convicted of causing bodily harm with intent and given a suspended sentence and two years probation.

The Board found the application qualified under Section 5 (a) of the Act and ordered compensation under 7 (1) (d) pain and suffering \$5,000; 7 (1) (f) medical reports \$120.00; solicitors fee and disbursements \$351.00 for a total award of \$5,471.00.

Former Members
of the
Law Enforcement Compensation Board
(April 1, 1968 — August 31, 1971)

and its successor

The Criminal Injuries Compensation Board
(September 1, 1971)

Apr.	25, 1968 — May	11, 1972	Judge Colin E. Bennett	Chairman & Member
Apr.	25, 1968 — Mar.	22, 1972	Robert P. Milligan, Q.C.	Member & Vice-Chairman
Apr.	25, 1968 — Dec.	31, 1973	Fred B. Deacon	Member
*Feb.	5, 1970 — Feb.	15, 1976	Judge A. Roy Willmott	Member
Aug.	20, 1970 — Sept.	9, 1971	Judge Ian M. Macdonnell	Member
*Jan.	1, 1972 — Mar.	31, 1974	Arthur A. Wishart, Q.C.	Chairman & Member
Feb.	9, 1972 — May	31, 1974	Robert C. Rutherford, Q.C.	Member & Vice-Chairman
Apr.	19, 1972 — Nov.	1, 1974	Vincent K. McEwan, Q.C.	Member & Vice-Chairman
*Jul.	1, 1973 — Apr.	1, 1978	Shaun MacGrath	Member, Vice-Chairman & Acting Chairman
Feb.	1, 1974 — Sept.	30, 1975	Eric H. Silk, Q.C.	Chairman & Member
Apr.	1, 1974 — Jan.	7, 1975	James W. Wakelin	Member
May	21, 1975 — June	1, 1978	Stuart David Cork, Q.C.	Member & Vice-Chairman
Sept.	22, 1975 — May	31, 1986	Audrey Merrett	Member & Vice-Chairman
Jan.	21, 1976 — Jan.	20, 1985	Allan Grossman	Chairman
*Feb.	16, 1976 — May	21, 1978	Edward W. Tyrrell, Q.C.	Member
Aug.	3, 1976 — Aug.	2, 1982	Douglas H. Lissaman, Q.C.	Member
June	1, 1978 — May	31, 1985	Robert W. Mitchell, Q.C.	Member
June	1, 1978 — May	31, 1985	Harvey Spiegel, Q.C.	Member
Sept.	1, 1978 — Aug.	3, 1985	Nathan L. Sandler	Member
*Jan.	30, 1980 — Jan.	29, 1986	Uno Viegandt	Member
Feb.	20, 1980 — Jan.	29, 1986	E. Lee Monaco	Member
Apr.	2, 1980 — Jan.	29, 1983	D. Arthur Evans	Member
Apr.	2, 1980 — Jan.	29, 1986	Linda Clippingdale	Member
*Sept.	1, 1984 — Apr.	26, 1985	Dr. Lyle Black	Member

On September 1, 1971, The Law Enforcement Compensation Act was superseded by The Compensation for Victims of Crime Act, and the title of the Board was changed from the Law Enforcement Compensation Board to the Criminal Injuries Compensation Board.

*(Deceased)

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Ontario
Criminal Injuries
Compensation Board
1987/88



88-4378-1131

THE
NINETEENTH REPORT
of the
ONTARIO
CRIMINAL INJURIES COMPENSATION BOARD
administering
THE COMPENSATION FOR VICTIMS OF CRIME ACT
for
the fiscal year
April 1, 1987 to March 31, 1988

THE BOARD

MARGARET SCRIVENER

Chairman

GERALD M. HARQUAIL

Vice-Chairman

ANNE STANFIELD

Vice-Chairman

Vera Brookes

Gloria J. Burt

Greville Clarke

Eli Freeman

John D. V. Hoyles

Rita Kaeding

Celia Kavanagh

James D. Lang

John F. Santos

Judith Stephens-Wells

Teresa Tait

Anne Tomjenovic

Members

★ ★ ★ ★ ★ ★ ★

V. P. GIUFFRE

J. H. SHEARD

F. G. SUTER

Chief Administrative Officer

Chief of Investigations

Manager Compensation Claims

★ ★ ★ ★ ★ ★ ★

Copies of this report may be obtained from:

Criminal Injuries Compensation Board

17th floor, 439 University Avenue,

Toronto, Ontario M5G 1Y8

Telephone: (416) 965-4755



Office of
The Chairman

Cabinet du
Président

Criminal Injuries
Compensation
Board

Commission d'indemnisation
des victimes d'actes
criminels

439 ave. University Ave.
17th Floor/17e étage
Toronto, Ontario
M5G 1Y8
(416) 965-4755

The Honourable Ian Scott,
Attorney General for Ontario,
Parliament Buildings,
Queen's Park,
Toronto, Ontario

Honourable Sir:

I have the honour to submit the Nineteenth
Report of the Criminal Injuries Compensation Board,
which covers the period April 1, 1987 to March 31,
1988.

Sincerely,

A handwritten signature in cursive script, reading "Wendy L. Calder".

(Mrs.) Wendy L. Calder
Chairman

Program Description

The Legislation

The legislation under which the Board functions is the Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967.

The Board is required by the Act to find the commission of a crime of violence (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies.

Section 6 of the statute prescribes a one-year limitation period of filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 205 requests for extension of the limitation period were approved and 22 were denied.

Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums:

In the case of lump sum payments, up to \$25,000.00 and in the case of periodic payments, up to \$1,000.00 per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is \$12,500.00.

These new maximums were enacted in November, 1986.

Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to injury or death. The sum of \$52,352.00 was recovered during the fiscal year, compared to previous years, as follows:

1986/87	\$61,962.00
1985/86	68,729.00
1984/85	62,991.00
1983/84	38,679.00
1982/83	26,834.00

Hearings

The Board, composed of a full-time Chairman, one full-time Vice-Chairman, one part-time Vice-Chairman and twelve part-time members, usually sits in panels of two.

Although a large number of Hearings were held in Toronto, during the fiscal year Hearings also took place in Thunder Bay, Sudbury, Sault Ste. Marie, Windsor, London and Ottawa. This is done routinely to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

Documentary Evidence Hearings

Some applications are relatively minor and simple of adjudication. Therefore, with the consent of the applicants, they are dealt with on documentary evidence alone. A total of 265 were heard in this manner during the fiscal year compared to 44 in 1986/87.

This approach minimizes the need to inconvenience the applicant and/or solicitor and witnesses insofar as travelling to the location of Hearings, the attendant loss of work time and expenses involved.

Child Abuse

During this fiscal year the Board received 166 applications in respect of child abuse, heard 63 cases and awarded \$515,979.69.

Administration and Productivity

The administrative staff of the Board is composed of the Chief Administrative Officer, Chief of Investigations, three Investigators, Manager of Compensation Claims, five Compensation Analysts and a clerical, secretarial, and stenographic staff of fifteen.

In this fiscal year, the Board heard 1176 applications and 1315 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year.

The total value of awards increased from \$4,310,085.00 in 1986/87 to \$5,954,958.00 in 1987/88. Of this amount \$1,220,003.00 was in the form of periodic payments.

The number of applications received increased from 2000 in 1986/87 to 2247 in this fiscal year. Due to heightened public interest in the welfare of injured victims of crime, it is anticipated that the application rate will continue to escalate.

Public Awareness

Large posters and explanatory pamphlets in five languages are supplied to hospital emergency wards and staff lounges, Court Houses and other public buildings, supermarkets, etc.

Police forces throughout the province have been supplied with hundreds of thousands of wallet-sized cards (as shown) to be given to victims of crimes of violence advising them how to apply to the Board.

The daily Hearing agenda and a selection of typical Board Orders are provided to the news media, and others upon request.

Cost Sharing

Awards made under the Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts to the lesser of 50% of the awards (net of any recoveries), or ten cents per capita of the population of the Province. For the fiscal year 1986/87, this share amounted to \$918,200.00. The Federal Government does not share administrative costs.



Ontario

ONTARIO CRIMINAL INJURIES COMPENSATION BOARD

Injured innocent victims of violent crimes may be eligible for compensation from the above Board. Reporting to, and co-operating with, the Police, is an important consideration. If you feel you may qualify, contact the Board immediately at (416) 965-4755, or write to 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8.

(9/8/83)



Ontario

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS DE L'ONTARIO

La Commission susmentionnée peut accorder une indemnisation aux victimes innocentes d'actes criminels violents qui ont été blessées. Il est primordial de contacter la police et de collaborer avec elle. Si vous pensez avoir droit à une indemnisation, veuillez contacter immédiatement la Commission, en téléphonant au (416) 965-4755, ou en écrivant à l'adresse suivante: 439, avenue University, 17^e étage, Toronto, Ontario M5G 1Y8.

(9/8/83)

Applications by Area April 1, 1987 to March 31, 1988

Acton	2	Barrie	8	Burleigh Township	1
Ajax	2	Beamsville	2	Burlington	19
Alexandria	1	Bearskin Lake	1	Buttonville	1
Algonquin Park	1	Beechburg	1	Cache Bay	1
Alliston	2	Belleville	6	Caesarea	1
Alviston	1	Bentick Township	1	Calstock	1
Amherstburg	4	Binbrook	1	Cambridge	14
Ancaster	1	Blind River	3	Campbellford	2
Angus	1	Bobcaygeon	1	Capreol	1
Armstrong	1	Bowmanville	5	Carleton Place	1
Arnprior	5	Bracebridge	1	Chatham	14
Arthur	1	Bramalea	3	Clinton	1
Atikokan	1	Brampton	21	Cobden	1
Aurora	1	Brantford	27	Cobourg	4
Badjeros	1	Brockville	14	Cochrane	2
Bala	1	Bruce Township	1	Collingwood	5
Bancroft	1	Burford	1	Collins Bay	1

Applications by Area (cont'd)

April 1, 1987 to March 31, 1988

Constance Lake	1	Limoges	1	Port Perry	1
Cornwall	6	Lindsay	1	Powassen	1
Courtland	1	L'Original	1	Prescott	1
Crystal Beach	1	Lisle	1	Rainham	1
Cumberland	3	Little Current	1	Richmond Hill	5
Delhi	1	London	91	Ridgetown	2
Delora	1	Lynden	1	Ridgeway	1
Desoronto	2	Madoc	1	St. Jacobs	4
Dresden	2	Malahide Township	2	St. Catharines	49
Dryden	2	Malton	4	St. Thomas	8
Dufferin City	1	Manitoulin Island	1	Sarnia	9
Dundalk	3	Marathon	2	Sault Ste. Marie	25
Dundas	2	Markdale	1	Schreiber	2
Dunnville	1	Markham	1	Shannonville	2
Ear Falls	1	Matheson	2	Sharbot Lake	1
Echo Bay	1	Meaford	1	Shelburne	3
Elk Lake	1	Merlin	1	Simcoe	6
Ellice Township	1	Merrickville	1	Sioux Lookout	2
Elliot Lake	4	Middlesex	1	Smith Falls	2
Emodet	1	Midland	1	Smithville	1
Espanola	1	Millbrook	1	South River	1
Essex	1	Mimico	2	Stayner	1
Exeter	2	Mississauga	47	Stoney Creek	6
Fenelon Falls	1	Moosonee	2	Stouffville	1
Ferris	1	Mount Forest	1	Stratford	4
Fitzroy	3	Muncey	1	Strathroy	2
Foleyet	1	Napanee	3	Sturgeon Falls	3
Forest	1	Nepean	11	Sudbury	30
Fort Erie	6	Newbury	1	Sutton	1
Fort Francis	1	Newmarket	1	Tavistock	1
Frankford	1	New Osnaburgh	2	Tecumseh	3
Fruitland	1	Niagara	4	Terrace Bay	1
Gananoque	3	Niagara Falls	33	Thorold	5
Garson	1	Nipigon	2	Thunder Bay	48
Georgetown	2	Norfolk	1	Tilbury	1
Gloucester	8	North Bay	5	Tillsonburg	7
Grand Bend	1	Northumberland	4	Timmins	6
Grassy Narrows	1	Oakville	2	Toronto	903
Greely	1	Ohswegen	1	Township of Sidney	1
Guelph	10	Orangeville	1	Trenton	3
Hagersville	2	Orillia	4	Tyendinaga	1
Haileybury	1	Orleans	2	Upsala	1
Haliburton	1	Oshawa	28	Vanier	9
Hamilton	124	Ottawa	94	Vaughan	1
Hanmer	1	Owen Sound	1	Wallaceburg	3
Hanover	1	Oxdrift	1	Warkworth	1
Harrow	1	Paris	2	Wasaga Beach	1
Hawkesbury	2	Peawanuck	1	Waterdown	1
Heron Bay	1	Peel County	2	Waterford	1
Ingersoll	3	Pefferlaw	1	Waterloo	8
Johnstown	1	Pembroke	2	Wawa	2
Joyceville	1	Penetanguishine	8	Welland	15
Wakebeka Falls	1	Perth	1	Wendover	1
Kanata	2	Peterborough	15	Werner	1
Kapuskasing	2	Petrolia	4	Westminster Township	1
Keejick Bay	1	Phelp Township	1	Weston	2
Kenora	2	Pickering	9	Whitby	9
Killahoe	1	Picton	2	Wickwemikong	2
King Township	1	Pigeon Lake	1	Windsor	77
Kingston	42	Point Edward	1	Wingham	1
Kingsville	3	Porcupine	1	Woodbridge	2
Kinnaut	1	Port Colborne	3	Woodstock	5
Kitchener	11	Port Credit	1		
Lancaster	1	Port Dover	2		
Leamington	6	Port Hope	2		
				TOTAL	2,247

Types of Crime as Listed on Applications

Common Assault	681
Assault Causing Bodily Harm	669
Sexual Assault	343
Robbery with Violence	84
Assault Police	83
Murder	83
Attempt Murder	74
Aggravated Assault	64
Assault with a Weapon	56
Wounding	33
Resist Arrest	31
Criminal Negligence Causing Bodily Harm	17
Arson	10
Dangerous Use of Firearms	5
Manslaughter	4
Common Nuisance Causing Harm	3
Intimidation by Violence	2
Explosive Substance Causing Bodily Harm	2
Illegal Confinement	2
Causing Bodily Harm with Intent	1
Total:	2,247

NB: The above statistics include 166 cases listed under the Criminal Code and commonly referred to as "Child Abuse".



1) Common Assault	30.3%	7) Attempted Murder	3.3%
2) Assault Causing Bodily Harm	29.8%	8) Aggravated Assault	2.8%
3) Sexual Assault	15.4%	9) Assault with a Weapon	2.5%
4) Robbery with Violence	3.7%	10) Wounding	1.5%
5) Assault Police	3.6%	11) Resist Arrest	1.4%
6) Murder	3.6%	12) Other	2.1%

Note: "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 166 cases commonly referred to as "Child Abuse". Family violence cases, especially wife battering, are encompassed within the various categories of assault.

COMPARATIVE SUMMARY
of
APPLICATIONS AND DISPOSITION

BY FISCAL YEARS
APRIL 1, 1987 to MARCH 31, 1988

COMPARATIVE SUMMARY — FISCAL YEARS APPLICATIONS AND DISPOSITION

	April 1, 1984 to March 31, 1985	April 1, 1985 to March 31, 1986	April 1, 1986 to March 31, 1987	April 1, 1987 to March 31, 1988
Eligible applications received	1697	1799	2000	2247
Applications heard (1)	1041	1233	1141	1176
Applications heard on documentary evidence	132	81	44	265
Applications heard but denied	67	48	51	86
Review of awards	6	3	6	11
Decisions completed and awards ordered (2)	1086	1220	1376	1315
Files closed	415	455	489	323
Interim awards	5	7	7	7
Supplementary awards	76	81	268	157
Periodic awards	15	15	21	19
Lump sum payments	\$2,693,372.73	\$3,382,775.91	\$3,539,159.10	\$4,734,953.00
Periodic payments	\$ 592,510.81	\$ 617,499.36	\$ 770,926.26	\$1,220,003.00
Total of awards ordered	\$3,285,883.54	\$4,000,275.27	\$4,310,085.36	\$5,954,956.00
Average award (3)	\$ 2,480.08	\$ 2,772.76	\$ 2,451.54	\$ 3,652.84

NOTE:

- (1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include files closed.
- (2) Includes Interim, Supplementary and Periodic Awards.
- (3) Periodic Payments not included when arriving at Average Award.

CONSOLIDATED SUMMARY OF AWARDS **APRIL 1, 1987 TO MARCH 31, 1988**

Months	No. of Awards	Medical Expenses	Loss of Earnings	Pecuniary Loss to relatives of Deceased Victim	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Legal Fees	Total Lump Sum Awards	Total Monthly Awards
		\$	\$	\$	\$	\$	\$	\$	\$	\$
April	25	305	5,049		44,100	2,500	5,737	3,250	60,941	100,246
May	40	1,821	3,767		89,800	2,592	13,165	3,050	114,195	100,346
June	102	7,351	15,663		241,400	2,500	16,157	11,985	295,057	100,522
July	102	15,445	19,949	300	302,615	595	22,172	17,175	378,251	102,322
August	133	15,638	62,583		368,600	16,202	24,028	16,875	503,926	100,672
September	151	12,035	50,934	31,500	455,025	17,032	24,957	22,600	614,083	102,684
October	70	5,886	44,264	31,241	209,650	2,700	12,133	9,650	315,523	102,102
November	155	9,748	53,072	18,474	442,350	16,528	27,036	19,450	586,658	102,812
December	99	3,771	22,003	3,872	234,600	11,332	30,396	11,050	317,024	104,454
January	75	12,632	9,370		169,950	4,677	14,849	6,450	217,928	100,615
February	145	41,884	81,564	7,200	425,150	5,300	31,365	17,115	609,578	100,865
March	218	40,395	43,186		565,600	5,400	44,033	23,175	721,789	102,366
Total	1,315	166,911	411,404	92,587	3,548,840	87,358	266,028	161,825	4,734,953	1,220,006
		3.52%	8.69%	1.95%	74.95%	1.85%	5.62%	3.42%		
Combined Totals of Lump Sum and Monthly Awards										5,954,959

EXAMPLES OF DECISIONS

April 1, 1987 to March 31, 1988

THE BOARD ORDER — AN EXPLANATORY NOTE

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action.

Under the Compensation for Victims of Crime Act which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category.

Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant.

Section 22 of the Act provides for an order for costs, usually those entailed in making, or providing support to, an application.

Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently

- (a) new evidence has become available, or
- (b) change of circumstances has occurred, or
- (c) the Board considers any other matter relevant, on the application of any of the parties to the proceedings; the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this position.

Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors.

As well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media, students and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a Hearing is held in camera or publication is restricted.

Examples of Decisions

FILE: 922-015516

The female applicant was returning to her family home on October 29, 1985 when she was accosted by the offender, the brother of her estranged spouse, who was armed with a hand gun. As she turned to run away the offender shot, hitting her in the right arm. The offender was apparently attempting to avenge his brother's reputation. Threats had been made against the applicant and her family prior to this incident.

The bullet had entered and exited through the right arm without damaging any major blood vessels or nerves. However, the radius was shattered and as a result the applicant spent ten days in hospital for the initial repairs and a further ten days a month later to have a bone graft done. She suffered complications and underwent eight months of physiotherapy. She was also absent from work for eight months

The applicant will require surgery in order to remove a plate. The Board will consider compensation under Section 25 for further lost wages, if there are any, at that time.

The offender was convicted of aggravated assault and certain firearm offenses and was sentenced to seven years penitentiary and subsequent deportation.

The Board found the applicant qualified under section 5 (a) and awarded \$266.00 expenses 7 (1) (a); \$5,502.08 pecuniary loss—dependants 7 (1) (c); 5,000.00 pain & suffering 7 (1) (d); \$45.00 other pecuniary loss 7 (1) (f) and \$150.00 to a doctor for a total award of \$10,963.08.

FILE: 922-012469

The applicant, a 24 year old male, had been dating the offender's separated wife for about a month. The couple had been attending an all night party in a friend's home. They had retired to a rear room where they were lying fully clothed on the bed. About 5:00 PM on March 17, 1984 the offender, who had not been drinking, entered and emptied his rifle into the applicant.

The applicant received gunshot wounds to both knees, the right forearm, right shoulder and back. He underwent a number of operations but has been left with ongoing knee problems. In spite of a tendon transfer he is still unable to fully flex his right wrist.

These injuries have seriously affected his sporting activities and employment possibilities.

The offender was sentenced to 11 months for aggravated assault and 12 months for using a firearm in the commission of an indictable offense, consecutive plus 2 years probation.

The Board found the applicant compensable under Section 5 (a) and awarded \$7,500.00 for pain and suffering 7 (1) (d); \$251.00 for other pecuniary loss 7 (1) (f) as well as \$350.00 for legal fees and \$526.20 for disbursements. The applicant's mother was awarded \$264.00 for mileage transporting her son to medical treatment for a total award of \$8,891.20.

FILE: 922-015410

The applicant, a book store clerk, was living common-law with the offender's estranged wife and child. They returned to their apartment about 8:45 PM on December 14, 1985 to find the offender awaiting them, armed with a rifle. After tying up the two separately he attacked the applicant with a knife. The applicant was severely stabbed several times in the chest and stomach before he could work himself free, and several times after in the arms as he tried to defend himself.

The applicant was rushed to hospital. When he was stabilized sufficiently he was sent on to another hospital for surgery on the multiple stab wounds to the neck, chest and upper abdomen. He required a surgical thoractomy to repair a stab wound to the right ventricle of the heart. Bleeding from the jugular vein was stopped and other chest and neck wounds were repaired. Finally an exploratory laparotomy was performed but no evidence of intra-abdominal injury was found. The applicant has been left severely scarred.

The Board was impressed by the way the applicant was dealing with the aftermath of a violent and terrifying occurrence in spite of the significant emotional trauma which continues.

The offender committed suicide within hours of the occurrence.

The Board found the applicant qualified under Section 5 (a) and awarded \$12,000.00 for pain and suffering 7 (1) (d); \$172.00 for expenses 7 (1) (a); \$861.96 for pecuniary loss-victim 7 (1) (b) and \$93.50 other pecuniary loss 7 (1) (f) for a total award of \$13,127.46.

FILE: 922-016413

The 22 year old male applicant was shot by his mother's common-law spouse on May 30, 1986 in her home. The applicant, his common-law wife and their child were residing with his mother and the offender who had been drinking during the course of the evening. About 11:00 PM the offender left the apartment after a dispute and returned shortly after with a gun. While the applicant attempted to wrest this gun away from the offender it discharged into his stomach area. The applicant then proceeded to assault the offender.

The bullet went through the applicant's body and exited through his back without causing internal damage. The bullet was deflected off a rib as it passed through. The applicant was hospitalized for six days and then recuperated for a further month at his mother's. The rib which had deflected the bullet was fractured and caused the applicant some pain. However, he was fully recovered within six months except for some occasional pain when he twists his body in a certain direction.

The applicant made a claim for a wage loss. However, he had been employed for only two weeks directly prior to the occurrence and was unable to document his wage loss. The Board was therefore unable to make an award on this aspect of his claim.

The offender was sentenced to six months for weapons offences.

The Board found that the application qualified under Section 5 (a) and awarded \$3,000.00 pain & suffering 7 (1) (d) and authorized payment of the \$22.00 ambulance charge for a total award of \$3,022.00.

FILE: 922-015134

On August 25, 1985 the then 17 year old applicant, a high school student, was spending a summer day with two of his friends at target practice with their pellet guns. Initially they had been practicing in the applicant's spacious back yard but later in the afternoon, after having purchased some pizza, they continued the target practice firing from the applicant's bedroom window using both the applicant's pellet rifle and the young offender's recently acquired pellet gun. About 5:50 PM they were casually passing the time and handling the loaded guns. The young offender, who was sitting across from the applicant, raised the applicant's rifle, aimed it at him and according to the applicant's testimony said, "I could shoot you in the eye from here." The gun discharged and the pellet struck the applicant in the left eye. It would have been necessary to release the safety catch. The applicant

rushed downstairs and his mother called an ambulance. The young offender testified at the hearing that they were just kidding around and that he could not remember saying he could shoot the applicant, nor pulling the trigger and that he had no animosity which would have caused him to shoot deliberately. The third youth's testimony confirmed that of the applicant.

The applicant was taken to hospital. An x-ray and a CT scan revealed the pellet embedded in the left orbital apex. It did not pierce the eyeball. The applicant remained in hospital about a week during which time the oedema of the tissues subsided and the vision improved. The prognosis is excellent and no future blindness is to be feared. The pellet has become encapsulated and will probably remain inactive for the rest of the applicant's life. He was informed of the provisions of Section 25.

The young offender was convicted of criminal negligence causing bodily harm and sentenced to a year's probation with a weapons prohibition during the period of the probation order.

The Board found the application qualified under Section 5 (a) and awarded \$65.00 expenses 7 (1) (a); \$3,000.00 pain & suffering 7 (1) (d) and disbursements of \$591.00 for a total award of \$3,656.00.

FILE: 922-012243

An extension of the limitation period was granted for this application. With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The 25 year old male applicant was entering an apartment recreation centre on November 20, 1982 to attend a party. As he descended the stairs to enter the centre he heard the sound of gun shots then felt a sudden pain in his left side. He ran back up the stairs, reached for the wound and realized he had been shot. The investigating police officer informed the Board that the applicant had been struck by a stray bullet during a murder attempt on another person present at the same party.

The applicant went to hospital by taxi. The doctor reported a gunshot wound originating in the left lower chest ranging from the posterior left flank through the left lower lobe and emerging about the eighth interspace anteriorly. At the time of the applicant's discharge from hospital there was some residual fibrosis and loss of volume in the lower lobe which the doctor stated might improve with renewed activity. A later report filed from New York speaks of dizziness and an itching sensation. No further medical reports were submitted.

The alleged offender was acquitted on a charge of attempted murder.

The Board found the applicant qualified under Section 5 (a) and awarded \$2,000.00 for pain and suffering 7 (1) (d).

FILE: 922-014971

On August 9, 1985, the unemployed 25 year old female applicant was preparing to set out on a boat cruise with a group of her girlfriends. These friends had dropped by her apartment to pick her up. While she was finishing dressing the alleged offender entered the apartment, pointed a gun at his former common-law partner and shot her in the head. When the applicant spoke to the alleged offender, he pointed his gun at her and shot her in the back as she tried to escape through a window of the first floor apartment. She asked a passerby to call police.

The applicant was taken by ambulance to hospital where she was treated for a gunshot wound. The bullet had entered the posterior aspect of the right chest by the scapula and made its exit through the upper outer quadrant of the breast. She was treated for soft tissue injury and discharged the next day. The recovery was uneventful. However, she feels uneasy in the presence of fights or disputes and has found it necessary to move to a new apartment to avoid the associations raised by the old.

No criminal charges were ever laid since the alleged offender committed suicide after this incident.

The Board found the applicant qualified under Section 5 (a) and awarded \$2,000.00 for pain and suffering 7 (1) (d).

FILE: 922-014524

At approximately 1:00 PM on August 4, 1984 the 17 year old student applicant met his life-long friend, the offender, at his friend's grandmother's where he had gone to invite the applicant to a picnic. Shortly thereafter they were at another friend's home and the applicant noticed a shotgun on the table. He was unaware that it was loaded and raised it simulating the movements of local hunters shooting geese. His friend told the applicant to put it down, which he immediately did, but then the young offender picked it up himself and shot the applicant in the neck.

The applicant, realizing that he had been shot, ran to the medical clinic from which he was transferred to hospital by air ambulance. There an irregular wound ten by five cm. and two cm. in depth was noted. There was also a

ragged five cm. wound on the right lateral shoulder. These were both debrided, sutured and drained under general anesthesia. It was also noted that the patient had lost his voice, probably due to damage to the recurrent laryngeal nerve. X-rays revealed a large number of pellets overlying or lateral to a number of the vertebrae. There were also some tiny metallic particles indicating shattering of pellets against the spine. Gunshot particles and small metallic fragments were also to be seen over the right clavicle and in the areas around the clavicle. An August 27 x-ray of the chest and the cervical spine noted that some of the wounds overlying the right clavicle and the cervical spine had been removed.

The applicant was taken to Toronto for assessment by an otolaryngologist. Both vocal cords were slightly reddened and oedematous. A CT scan of October 4, 1984 found multiple radio-opaque pellets present in the region of the right pyriform sinus and the pre-epiglottic space as well as to both sides of the pyriform fossa and in the soft tissue to the right side of the pharynx. The specialist concluded that there was some effect on his voice but it was improving. At the hearing it was apparent that the timbre of his voice is considerably lower than the norm. Residual scarring remains on the right side of the neck and shoulder. The applicant suffers from ongoing fearfulness and is concerned about his ability to become a carpenter.

The Board drew his attention to Section 25 with respect to the applicant's need for ongoing chiropractic treatments. It also agreed to consider a claim for loss of wages upon receipt of the appropriate documentation.

The young offender was convicted of careless use of a firearm and was sentenced to one day concurrent.

The Board found the applicant qualified under Section 5 (a) and awarded \$900.00 expenses 7 (1) (a); \$10,000.00 pain & suffering 7 (1) (d) and \$657.00 other pecuniary loss 7 (1) (f) for a total award of \$11,557.00.

FILE: 922-017438

Hearing held in camera.

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant is a 52 year old woman who was walking her dog about 5:30 PM on January 5, 1987. She was suddenly grabbed from behind and forced to the ground by the offender. He asked that she undress and then that she kiss him. When she refused he began to punch her about the head, pulled down her underwear, bit her in the genital area and spanked her hard on the buttocks. The victim called loudly for help. When a young man appeared the offender ran away.

Police were called to her home and they brought her to hospital. A checkup there confirmed her story. There were bite marks, bruises and scrapes in all the areas referred to.

The offender was identified and sentenced to 2 years less a day plus 3 years probation.

The Board found the applicant compensable under Section 5 (a) and awarded \$5,000.00 pain & suffering 7 (1) (d).

FILE: 922-017857

Hearing held in camera.

The applicant, a 37 year old receptionist, was accosted by the offender, masked and armed with a gun, in the lobby of her apartment building on June 10, 1986. He dragged her through the lobby to the garage room where he assaulted her physically and sexually over the next half hour. She resisted his attempts to tie her up. He then banged her forehead on the floor and punched her in the left eye. When she told him she had neither a PIN number nor charge cards the offender became angry. He picked her up and threw her into a large wooden garbage bin and left. She crawled to the lobby where another tenant found her. The police were notified.

The applicant was taken to a hospital emergency room. She was complaining of pain in the head, lower back, right wrist and left shoulder. There was a large contusion and hematoma on her forehead, a bruise on her neck, a large abrasion on her left shoulder, bruises on both elbows, multiple contusions on her legs and tenderness in her back and right wrist. The applicant saw a doctor on June 13 who noted that counselling had been arranged.

By this time the applicant was sore all over and the entire left side of her face was bruised. When she saw her family doctor on June 24 she was complaining of headaches, dizziness and light-headedness. She was already seeing a psychotherapist for the emotional trauma. On October 28 she reported that she was feeling anxious, sleeping poorly and felt that she was not functioning adequately at work. On November 5 she reported to her family doctor that she was still seeing the psychotherapist, continuing to sleep poorly and experiencing nightmares. The applicant was still attending counselling sessions at the time of the Hearing. A report from her counsellor at the Sexual Assault Care Centre reported that she had difficulty eating, sleeping, concentrating on her work and was fearful of the dark and of being left alone in her apartment. Her social life had become non-existent, she had given up her volunteer work and was unable to

sustain a sexual relationship. Because of financial constraints she had not been able to change apartment buildings.

The applicant testified at the Hearing that she has constant headaches on the left side of her head, has lessened vision in her left eye and is developing an ulcer. Her life has been drastically affected by the assault. The Board anticipated that she will continue to need therapy to help her get her life back to some semblance of normalcy.

The investigating officer testified at the Hearing that the offender, who was charged with assaults on four other women during two month period, was an educated individual with no feelings of remorse. Trained as a ballet dancer he was very strong and agile. Police were able to identify the offender from a tape of his voice with the assistance of the applicant and two other assaulted women.

The offender was charged with twenty-seven counts including aggravated sexual assault, robbery and unlawful confinement in six separate incidents. He pleaded guilty to robbery and aggravated assault and was sentenced to a total of eight years imprisonment.

The Board found that the application qualified under Section 5 (a) and awarded \$213.00 expenses 7 (1) (a); \$10,000.00 pain & suffering 7 (1) (d); \$136.50 other pecuniary loss 7 (1) (f) a \$400.00 legal fee and disbursements of \$50.00 for a total award of \$10,799.00.

FILE: 922-014744

Hearing held in camera.

The applicant was a 40 year old female living in a trailer park. On October 28, 1984 she had gone to a pizzeria across the way to get some pizza. She had two drinks while waiting for her order. Before she left the pizzeria she decided to go to the washroom but suffered an epileptic seizure on the way and fell unconscious to the floor hurting her head. An employee, assisted by a patron, the offender, assisted her. This patron offered to drive her back to her home directly across the way but instead of doing so, drove her off to a remote area. He parked his car in a farmer's field, removed the applicant, then beat and sexually assaulted her brutally. She was left lying naked and unconscious in the field for about eleven hours. When the applicant regained consciousness she picked up her clothes and walked for about three hours until she reached a farm house. Police were then called.

The applicant was taken for treatment to hospital by ambulance. Examination revealed a concussion and

multiple soft tissue injuries to her face, neck, back, arms, legs and buttocks. X-rays revealed no fractures. The rape kit was administered and the applicant kept in hospital three days for observation. She underwent a right lower lip scar revision operation in May, 1985. Some dental work was also needed which has been paid for through other agencies. The applicant later complained of deafness in the right ear. An audiogram revealed severe permanent hearing loss in that ear which is not amenable to surgical treatment.

The applicant was advised of the provisions of Section 25 with respect to a hearing aid for her right ear. The Board will consider payment of the hearing aid on submission of an account as per the estimate filed with the Board.

The offender was charged with aggravated sexual assault. At trial he pleaded guilty to sexual assault causing bodily harm and was sentenced to two years less a day plus two years probation and other conditions.

The Board found that the application qualified under Section 5 (a) and awarded \$95.00 expenses 7 (1) (a); \$9,000.00 pain & suffering 7 (1) (d); \$74.00 other pecuniary loss 7 (1) (f) a legal fee of \$450.00 and disbursements of \$208.50 for a total award of \$9,827.50.

FILE: 922-016621

Hearing held in camera.

The 34 year old female applicant was asleep in bed in her apartment on July 25, 1986 when the offender jumped on her and she awoke to find him subduing her by pressing a pillow over her head. He then pulled something dark over her head and tied her wrists while he held a knife against her throat and sexually assaulted her for over an hour and a half. When he left, the applicant went to the superintendent's apartment for help.

The applicant was taken to hospital and the police were called. She underwent the procedure for rape victims. Hospital records note that she had red jagged marks on her neck, raised red areas on both wrists and a tender neck.

The applicant accompanied police to her apartment to assist them in their investigation. She then drove back with her sister to her home and stayed there for ten days in seclusion. She then flew back to her own city when a friend arranged for the rental of a new apartment. She was therefore temporarily responsible for the rent on two apartments. She returned to work

September 9, 1986 and though she received short term disability payments she calculated a net income loss of \$205.00.

The applicant described to the Board the severe emotional reactions to this violent assault. She was in terror that the offender would return to kill her since he knew her identity. She was unable to stay alone, fearful of all men, cried constantly and worried what the effects on her mother would be if she found out. Her boyfriend deserted her and she was only able to move into her new apartment in October after the apprehension of the offender. She has many security devices on her new apartment but even now is still afraid when she enters that someone is there. She needs to keep the lights on all night. She attended a counselling program arranged by a hospital and though she feels she would continue to benefit from further sessions has been unable to arrange it financially.

The offender was convicted of five counts of sexual assault and sentenced to twenty years.

The Board will pay for the costs of further counselling under Section 25.

The Board found the applicant qualified under Section 5 (a) and awarded \$2,000.00 expenses 7 (1) (a) and \$10,000.00 pain & suffering 7 (1) (d) for a total award of \$12,000.00.

FILE: 922-016292

Hearing held in camera.

An extension of the limitation period was granted for this application.

The applicant was a 20 year old unemployed woman who had spent the evening of September 15, 1984 at the residence of a long-time friend where she met the offender for the first time. When the applicant desired to return home she was faced with a lengthy bus trip and considered taking a cab but was short of money. Though she briefly demurred when the offender offered her a ride on his motorcycle she finally accepted after being reassured by her friends. However, rather than taking her home he drove her to a secluded area then stripped and sexually assaulted her while threatening her with a knife. After the assault he further threatened her should she divulge what had occurred. However, the applicant sought assistance and the police were informed.

The applicant was taken to hospital where the rape kit procedure was utilized. Though the applicant reported that she had been struck in the face and that vaginal intercourse had occurred there were no visible marks.

However, evidence submitted to the Board documented the considerable personality changes which followed from the rape. The applicant appears to have withdrawn into herself and to have adopted a very passive attitude with the distinct lack of a sense of worth, sometimes described as the damaged goods syndrome. She has undergone a diagnostic assessment which has provided badly needed and extremely beneficial emotional support. The applicant attended the criminal proceedings and conducted herself, as the Board was informed, in an admirable fashion despite the embarrassment of the details and circumstances surrounding the assault.

The offender was sentenced to three years for sexual assault.

The Board found the application qualified under Section 5 (a) and awarded \$10,000.00 pain & suffering 7 (1) (d) to be paid out to the applicant in 50 periodic monthly instalments of \$200.00 each, the first payable on February 1, 1988. The Board also awarded the sum of \$450.00 to the applicant's counsel for his able professional assistance and sensitive handling of the presentation of the application before the Board. The total award was \$10,450.00. By a subsequent section 25 variation to this Order the solicitor was awarded legal costs of \$291.75.

FILE: 922-013740

Hearing held in camera.

With the applicant's consent this application was considered solely on the basis of the documentation filed.

The applicant, then a 20 year old patient being treated for an eating disorder in a psychiatric hospital, went out for the evening of March 10, 1984 with four other persons. The offender ordered the other persons out of the room, slapped the applicant's face a number of times when she refused to undress, then undressed and raped her. When she got a chance she went to a neighbouring house and called the police.

The applicant was taken to hospital by the police. The rape procedure was followed. She was noted to be upset and crying. Her psychiatrist reports that she was in a state of mental shock for several weeks after the rape. She was depressed and unable to sleep. She is now distrustful of men.

Since the applicant was not employed at the time of the assault the Board did not have the records on which to base the \$7,500.00 loss of income claimed by the applicant. If she can provide a statement from an employer to support her claim for loss of income the Board would consider this under Section 25.

The offender was sentenced to a year's imprisonment consecutive to a sentence he was already serving for another sexual assault.

The Board found that the application qualified under Section 5 (a) and awarded \$7,500.00 pain & suffering 7 (1) (d).

FILE: 922-015507

Hearing held in camera.

The 18 year old applicant had attended a party at the home of some friends and was walking to her boyfriend's home about 2 AM on August 28, 1982. She passed by a group of three young men, who dragged her into a wooded area, choked, kicked and punched her in the face. Her jeans and underwear were forcibly removed but the offender, a cousin whom she recognized, was unable to carry through the rape because of the vigor of her struggles and resistance. The men then tied her arms to a tree and fled. The applicant freed herself, then flagged down a passing motorist who took her to the security station of a chemical corporation where she called police.

The applicant was taken to hospital. She was admitted with gross swelling to the right side of the face, swollen and bruised lips as well as an undisplaced fracture of the nose. Her upper front teeth were also damaged in the assault.

The offender was sentenced to a year on a charge of assault with intent to commit rape. The other 2 were never identified.

The Board informed the applicant that it will pay for the repair of her teeth as per the estimate filed at the hearing on receipt of a report from the dentist that the work has been done. By a subsequent variation to this Order the Board authorized the payment of the dental work done at a cost of \$4,090.00 dental expenses 7 (1) (f). It declined to pay the \$50.00 for a filling to tooth #23 but otherwise found the account in line with the estimate.

The Board found the applicant qualified under Section 5 (a) and awarded \$7,500.00 pain and suffering 7 (1) (d); \$55.00 other pecuniary loss 7 (1) (f); a \$450.00 legal fee and disbursements of \$313.75 for a total award of \$8,318.75.

FILE: 922-016230

The applicant was a 20 year old university student who was looking after the family farm during a parental absence. About 9:30 PM on March 2, 1985 the offender,

a farmhand who had twice previously made sexual advances to the applicant which she had rejected, entered the house on a pretext, grabbed the applicant and began choking her. During the struggle he banged her head on a chair, she briefly lost consciousness and began bleeding from the nose and mouth. She managed to talk the offender out of a further assault in spite of his further threats. She fled the farm, sought refuge with a fellow student as well as medical and legal aid and reported the incident to the police.

The offender was given a suspended sentence plus one year probation on a charge of assault bodily harm.

The Board found the applicant compensable under Section 5 (a) and awarded her \$60.91 expenses 7 (1) (a); \$4,000.00 pain and suffering 7 (1) (d); \$97.50 other pecuniary losses 7 (1) (f) and \$36.00 disbursements for a total award of \$4,194.41.

FILE: 922-016821

Hearing held in camera.

With the consent of the applicant, this application was considered solely on the documentary evidence submitted. An extension of the limitation period was granted for this application.

About 12:30 AM on September 19, 1984 the applicant, a 73 year old woman was awakened by a man kneeling beside her bed. At first he asked for money, then fondled and finally stripped and raped her. He then shut her in a closet and placed a sewing machine in front of the door. Several hours later she made her way to a neighbour's who called the police. She was taken to hospital where she was diagnosed as having been raped and manhandled. Her wrists were bruised from having been restrained.

The applicant is still unable to stay alone at night.

The offender was never found.

The Board found the applicant compensable under Section 5 (a) and awarded her \$31.26 for expenses 7 (1) (a) and \$7,500.00 pain & suffering 7 (1) (d) for a total award of \$7,531.26.

FILE: 922-017741

Hearing held in camera.

The applicant, a 25 year old reconciliations clerk, was sexually assaulted by a man armed with a knife for about an hour and a half from approximately 2:30 AM on June 25, 1986. She received a small laceration to her right hand and some bruising to her right knee but much more serious was the significant emotional trauma she sustained.

The applicant received weekly counselling for nine months and now attends monthly. She was absent from work for approximately a month. She stayed with a number of friends and relatives for the first four months. Since she does not yet feel able to cope on her own she now shares an apartment with a roommate. She sleeps only four or five hours a night, has nightmares and will not go out alone at night. Despite her courageous efforts to overcome the aftermath of this occurrence, depression, anxieties and mood swings continue.

The Board advised the applicant that if she wished to undertake more specialized counselling she should submit a psychologist's or psychiatrist's assessment. The Board would cover the cost of the assessment and consider covering the cost of the therapy under Section 25. The Board agreed to cover her net income loss and make an allowance towards the costs of moving and relocation.

The offender was convicted of five counts of sexual assault (one of these being that against this applicant) and was sentenced to twenty years.

The Board found the applicant qualified under Section 5 (a) and awarded \$700.00 expenses 7 (1) (a); \$276.00 pecuniary loss-victim 7 (1) (b); \$9,000.00 pain & suffering 7 (1) (d) and \$85.75 other pecuniary loss 7 (1) (f) for a total award of \$10,061.75.

FILE: 922-016369

Hearing held in camera.

The applicant was a 33 year old married member of the armed forces who had been out for the evening. Her husband was admitted to hospital because of a disagreement which broke out at the party. As she was walking home about 2:30 AM on June 7, 1986 she was forcibly abducted by 2 men in a pickup truck. She resisted violently and managed to get partially out of the truck. She was driven for about 11 blocks with her feet dragging on the ground. The offenders drove her out of town where she was raped by both men, subjected to cunnilingus by one offender and struck in the face by the other when she bit him, as he tried to force her to fellate him. While the 2 were absorbed in conversation she made good her escape, the police were called and she was taken to hospital.

The applicant was hospitalized for 5 days with bruising and swelling, as well as a hairline undisplaced fracture to the nose, abrasions to both elbows and both knees and a strained shoulder. Two teeth suffered damage requiring repair.

She also suffered severe emotional trauma. The offenders were tried separately and the applicant

collapsed and was admitted to hospital for 4 weeks at the time of the second trial suffering from an adjustment disorder with depression. The applicant has required a good deal of professional counselling. The injury to her feet has affected her career in the military.

The 2 offenders were each sentenced to 4 1/2 years for aggravated sexual assault. An investigation will be made into the possibility of recovery pursuant to Section 26 (2) of the Act.

The Board found the applicant qualified under Section 5 (a) and awarded \$150.00 expenses 7 (1) (a); \$271.50 pecuniary loss-victim 7 (1) (b); \$12,000.00 pain and suffering 7 (1) (d); a \$400.00 legal fee; \$36.00 disbursements and a \$671.40 payment to an OPP witness for a total award of \$13,528.90.

FILE: 922-017045

Hearing held in camera.

The application was brought by a 23 year old clerk for a stockbroker with respect to occurrences on May 24 (file 922-017045) and June 29, 1986 (file: 922-017363) both involving the same offender. About 10:45 PM on the night of May 24th the applicant, who was waiting the arrival of her boyfriend, had left the fire exit door to the apartment open for ventilation. She heard footsteps and found herself confronted with an armed intruder whose face was disguised by a white ski tube. He demanded money. The applicant gave him her wallet and was forced to bend over the bathtub while he removed her bank card. He then asked her for her account number warning her that if it were wrong he would return. He took her back to the living room, bound her hand and foot and then gagged her. The applicant recognized his gun to be a fake when he lay it down beside her. The offender then fled via the fire escape, the applicant extricated herself and telephoned her parents who called police. She stayed with her parents for several weeks.

After installing a new set of locks the applicant returned to her apartment. She awoke at approximately 5:00 AM on June 29 to the sound of the offender walking down the hallway to her bedroom. She recognized the male of the earlier occurrence though his face was now disguised by a stocking mask. He entered her bedroom and grabbed her by the neck complaining that she had given him wrong numbers. When she attempted to resist he began choking her and then 'hogtied' her to her bed and blindfolded her. He again requested her wallet and bank identification number and she again provided him with false information.

The offender then demanded and the applicant was forced to acquiesce to a number of sexual acts

including intercourse. He tied her up again and fled. She was able to remove her blindfold and by thrashing around made sufficient noise to alert a neighbour who called police.

The applicant attended hospital where the sexual assault kit was administered. They also noted the numerous abrasions and rope burns. She returned to her parents' home where she initially cried a lot and suffered from insomnia. She also attended a psychiatrist who reported that she experienced every possible symptom of the Rape Trauma Syndrome as a Post-Traumatic Stress Disorder and predicts long-term psychological consequences. The applicant also took part in eight weeks of group therapy.

Though the applicant told the Board she is almost back to normal she has been forced to live with the realities of her fear of being alone, refusing to go into the subway late at night, being more easily depressed, sleeping fitfully when alone and being more vulnerable. She is also concerned about the offender's eventual release from prison. The Board commended her self-possession and efforts to get on with her life.

The offender was charged with break enter and commit an indictable offence, robbery, unlawful confinement-forcible and disguise with intent for the first incident. He pleaded guilty to robbery. He was charged with break enter and commit an indictable offence, choking, robbery, aggravated sexual assault, unlawful confinement and disguise with intent for the second incident. He pleaded guilty to aggravated sexual assault. He received a total sentence of eight years on all charges.

The Board found the applicant qualified under Section 5 (a) and in an order covering both occurrences awarded \$12,000.00 pain & suffering 7 (1) (d) and legal fees of \$500.00 for a total award of \$12,500.00.

FILE: 922-016048

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

When the applicant returned home from work on November 27, 1985 she found her husband and her two children dead. The children, a girl aged eleven and a boy aged ten, had been given cyanide by their father apparently depressed over a cancer and the possibility of losing his children in a separation. He then committed suicide using the same means.

The Board found the children to be victims of crime under Section 5 (a) of the Act and ordered compensation for their funeral costs \$1,977.09 7 (1) (a) but declined compensation for the father's funeral expenses since he was the offender. The total award was therefore \$1,977.09.

FILE: 922-016122

The applicant, a 32 year old woman, who had returned home about midnight on April 14, 1986, awoke in the middle of the night to find the offender wearing a balaclava in her bedroom. He jumped on her back as she was lying prone in bed. This led to a protracted struggle throughout the house during which she recognized her assailant as a former boyfriend. During this struggle she was struck, bitten, jumped on and hit with a lamp.

When the offender left she called a friend, was taken to hospital and the police were notified. She was found to suffer from multiple abrasions and contusions as well as a laceration to the right suborbital and right parietal area. X-rays revealed a compression fracture of the body of T 11, T12 and L 1.

The offender was sentenced to a total of 4 years for disguise with intent, aggravated assault, unlawfully in a dwelling house and break and enter and committed aggravated assault.

The applicant was found compensable pursuant to Section 5 (a) and awarded expenses of \$451.10 7 (1) (a); \$836.00 pecuniary loss-victim 7 (1) (b); \$4,000.00 pain and suffering 7 (1) (d) and \$116.00 pecuniary loss 7 (1) (f) for a total award of \$5,403.10.

FILE: 922-014117

This application was originally heard in Toronto on November 25, 1985 but a decision was reserved at that time pending receipt of further information. Since the applicant now lives in B.C. and was unable to attend the Hearing a video cassette of her sworn testimony in a B.C. hospital concerning the criminal charges against her ex-husband, the offender, was shown under an order of a judge of the Supreme Court of Ontario.

On November 4, 1984 the then 22 year old applicant was assaulted by her husband.

The applicant was admitted to hospital then transferred to hospital in a larger centre where a fracture dislocation of C3-4 with associated spinal cord injury was diagnosed. She was intubated and ventilated, underwent a tracheostomy and spinal fusion at the C 4 level. Her recovery was complicated by recurrent pneumonias, several urinary tract infections, and gastrointestinal problems including a peptic ulcer. On December 21, 1984 she was transferred to a hospital in Vancouver by military transport to be nearer to her parents.

A consultation report from the British Columbia hospital dated July 4, 1985 indicated that the applicant has no

functional movement below the neck and is totally dependent on others for her care. She was realistically optimistic about her future and highly motivated though she continued to suffer intermittent neck and shoulder pains and spasms, suffered from anxiety and had difficulty in controlling her anger. Another report dated February 13, 1985 pointed out that she had sustained a high spinal column injury with associated spinal cord damage, had become quadriplegic and was partially respiratory dependent. It was felt unlikely that her condition would change significantly in the near future.

However, by March 25, 1987 the applicant's solicitor informed the Board that she was living in her own apartment, in receipt of welfare benefits from the B.C. government, a disability pension and covered 100% by their medical plan. He pointed out that periodic payments could be detrimental to his client but that a lump sum payment, in certain circumstances, would be beneficial to her.

The offender pleaded guilty to aggravated assault and was sentenced to 5 years imprisonment.

The Board found the applicant qualified under Section 5 (a) and awarded \$25,000.00 pain and suffering 7 (1) (d), the maximum statutory lump sum payment. Under Section 22 it authorized payment of a legal fee of \$700.00 and disbursements of \$212.63 for a total award of \$25,912.63.

FILE: 922-014566

The applicant, a 27 year old constable, had been summoned about 10:00 AM on September 1, 1984 to a local shopping centre to investigate an occurrence involving suspicious persons. When he joined a fellow constable (file: 922-014610) at the centre a gunfight erupted in which this other constable was critically injured. The applicant shot and killed one of the assailants but was himself shot in the face and upper leg.

The applicant was taken to hospital then transferred upon resuscitation to another hospital where gun shot wounds were noted in the mid-portion of the left thigh and in the area of the right mandible. X-rays revealed a comminuted fracture of the mid-shaft of the femur with multiple bullet fragments in the soft tissue of the thigh. He was placed in a balanced skeletal traction for the femoral fracture. By the end of five weeks this fracture area was so vastly improved that at the end of six weeks the applicant was placed in a synthetic hinged cast.

The bullet causing the facial injury had entered at the mid-line then passed backward and along the right side of the jaw until it lodged in the neck muscles of the right

side. It had caused a comminuted fracture of the mandible so an intermaxillary fixation was applied. This bullet had passed close to the posterior teeth. Recovery was satisfactory and a stable reduction of the fracture was noted. However, the post-operative course was prolonged because of the femur injury noted above. The embedded bullet migrated to the surface and was removed under local anesthesia on October 15, 1984 the day he was discharged for home care.

A medical report filed with the Board indicated that the applicant has recovered completely from the jaw injury though allowance should be made for possible damages which may manifest themselves only in the future. An examination on January 29, 1985 indicated that the femur fracture had healed so the cast brace was removed. The applicant was then encouraged to continue physiotherapy to develop and improve the range of motion of his knee and hip on the left side. There is some cosmetic defect at the site of the entry of the bullet wounds on his thigh and this defect will remain with him for life.

The applicant returned to light duties on March 11, 1985 and resumed full operational duties shortly hereafter. The Board was deeply impressed by the remarkable tenacity and persistence he exhibited in undertaking a stern regime of exercises to regain the strength and mobility of his limbs of which he had previously been most proud as an active athlete. The character and demeanor he presented before the Board reflected most favorably on himself and the force which he represented. While his rehabilitation appears complete the Board was mindful of the cautionary note running through the medical reports and drew to the attention of both the applicant and his counsel the provisions of Section 25 should there be future problems arising as a consequence of this unhappy occurrence.

One of the offenders was sentenced to life imprisonment on two counts of attempted murder. Another received 13 years for conspiracy to commit robbery, aggravated assault and use of a firearm. Two other offenders received eight and five years respectively for conspiracy to commit robbery.

The Board found that the application qualified under Section 5 (a) and awarded \$18,000.00 pain & suffering 7 (1) (d); a \$400.00 legal fee and \$250.00 disbursements for a total award of \$18,650.00.

FILE: 922-014921

Hearing held in camera.

The 38 year old female applicant, was the mother of a troubled son, the alleged young offender. Though he

had been living peaceably with her for the two years previous to March 25, 1985 he assaulted her about 1:00 AM with a bar from a weightlifting set and then set the house afire. She was found by members of the fire department.

The applicant was first taken to hospital where a depressed fracture to the left temporal area and multiple fractures to the facial bones and jaw as well as a small pneumothorax and multiple lacerations were diagnosed. Concern was expressed about the laceration on the left side of her forehead in case she developed an extradural hemorrhage. She was transferred to the intensive care unit of a hospital in another city where the facial fractures were repaired. A medical report indicates that she was doing well neurologically by April 2 when she was discharged from the hospital and that the soft tissue injuries in her arms and legs were also resolving.

However, after that discharge the applicant experienced periods of confusion and forgetfulness as well as pent-up emotions. The emotional trauma came to a head when she went to see her son in detention and he refused to see her. According to a medical report she became so depressed there was concern she could become suicidal, a fear confirmed when she was admitted to hospital on March 24, 1986 after a suicide attempt. The medical report indicated that she had been depressed and mentally upset for the previous year. She was then admitted to the specialized institution where she had been previously admitted between August 1 and September 21, 1974 and May 23 until June 19, 1985. When she was admitted in March, 1986 she walked with a limp, had a real defect in her right hand and was concerned about her speech. A medical report indicates however that she could speak quite well and that her situation was more a reactive depression than due to actual brain damage or attendant disturbance to her thinking. While there she underwent physiotherapy for the problems with the right hand and the left foot. In a February, 1987 report the medical director of the institution stated that the applicant was suffering a very definite emotional reaction to the trauma of the injury she had received and that the depression was 100% related to the stress and trauma of the injuries suffered at the time of the assault and house fire.

A neurologist who considered the applicant's complaints of residual numbness on the left side, fatigue and parasthesia involving the left hand and foot could not find any significant localizing neurological signs but surmised that she might have had a rotational brainstem injury as a result of her prolonged coma and this would account for the problems. On April 4, 1986 the applicant continued to complain of slurred speech, mild blurring of vision in the right eye and continuing parasthesia and numbness in her left foot. The

neurologist again considered these problems to be a result of her head injuries. A further ophthalmological diagnosis of optic neuritis raised the possibility of multiple sclerosis since the condition exists in 40% of MS cases. However an MRI scan in April, 1987, which showed an abnormality in the region of the brainstem, did not confirm a diagnosis of multiple sclerosis. The medical report urged caution against concluding the patient actually had MS. The neurologist concluded in his report that the applicant was severely neurologically impaired because of brain damage and that despite her impressive psychiatric history he did not feel that her problem was psychosomatic.

The applicant testified at the Hearing that after a length of time her hand becomes difficult to use which means that she is unable to work. Her right eye blurs on a daily basis.

The applicant's claim for wage loss will be dealt with by the Board under Section 25 upon receipt of the income tax records requested and the results of an enquiry with respect to CPP benefits which the applicant's lawyer will supply.

The young offender was found not guilty of attempted murder by reason of insanity and confined under warrant.

The Board found that the application qualified under Section 5 (a) and awarded \$20,000.00 pain & suffering 7 (1) (d); a \$400.00 legal fee and disbursements of \$604.50 for a total award of \$21,004.50.

FILE: 922-014741

An extension of the limitation period was granted for this application.

This application was brought by a housewife for nervous shock sustained as a consequence of the murder of her daughter on March 30, 1980.

The applicant was hospitalized in a psychiatric unit in June, 1980 with an acute depression. She left the hospital in October to visit relatives in England but upon her return in January, 1981 she had to be readmitted and remained there until February when she released herself though she continued regular visits to a psychiatrist until October, 1981. The doctor reported at that time that she was not completely well. Her new psychiatrist in a report dated February, 1987 speaks of continuing severe symptoms of depression which he has attempted to treat through electro-convulsive therapy and medication with results he considers less than satisfying.

The applicant is described as having had a nervous disposition prior to her daughter's murder. She had an earlier depressive illness, also treated with electro-convulsive therapy, in 1953 after the death of her first husband. In addition to the death of her daughter she has undergone a number of other unrelated emotional upheavals including a divorce and a subsequent marriage and the illness of her new husband which have all contributed to her continuing depression and illness.

The Board agreed to cover a 65 week net loss of income and made an allowance of \$900.00 for one year toward the cost of the applicant's extensive medication.

The offender was convicted of murder and sentenced to life imprisonment with no parole for 10 years.

The Board found that the application qualified under Section 5 (a) and awarded \$900.00 expenses 7 (1) (a); \$6,705.00 pecuniary loss-victim 7 (1) (b); \$10,000.00 pain & suffering 7 (1) (d); \$59.00 other pecuniary loss 7 (1) (f); a \$500.00 legal fee and disbursements of \$139.00 for a total award of \$18,303.00.

FILE: 922-014610

The application was brought by a wife on behalf of her husband, a 32 year old police constable, who was left a quadriplegic after having been shot in the upper neck while on duty on September 1, 1984. He also suffers from cortical blindness and has severe brain damage as a result of his injuries.

The victim was treated in hospital from September 1, 1984 until January 15, 1985 when he was transferred to the rehabilitation program in another hospital where he remained until May, 1985. He was then transferred for further intensive rehabilitation to a specialized American centre where he remained until August 1986 when he returned briefly to the Canadian rehabilitation centre, which he had previously attended, before returning home the same month. These three years of intensive rehabilitation are fully documented in medical reports filed with this Board. Due in large part to his courage and efforts as well as the efforts of his wife, family, fellow officers and the medical community the victim has made remarkable progress in spite of the severity of his injuries.

The victim continues to live at home with his family and a permanent aide who assists with his care and the continuing rehabilitation. He attends the rehabilitation centre three days a week for physical and occupational therapy which is continued at home two days a week. He also participates in a swimming program one day a week. Progress in the program, which is attempting to

provide him with as normal and rich a life as possible, is complicated by his blindness and memory problems. The Board noted his wife's remarkable sensitivity in responding to his emotional needs and providing an environment which nourishes continuing progress.

The Board is satisfied that the victim has both received and will continue to receive adequate financing to compensate for the continuing loss of income and to provide the significant amount of physical equipment required for his care and rehabilitation. The Board therefore does not intend now or in the future to make payments in those areas. However, it considered that his injuries and continuing disabilities warranted a maximum award. Moreover, it considered that a maximum award on the basis of periodic payments would contribute in the most meaningful way to his and his family's efforts to attain a rich and fulfilling life. It therefore ordered an immediate payment of \$12,500.00 and a monthly payment of \$1,000.00 commencing May 1, 1987. These monthly payments are to be continued during the life of the victim as long as he is being cared for at home or until the statutory limit of \$250,000.00 is reached. The applicant, to whom the payments are to be made for the victim's benefit and use since she has power of attorney on his behalf, is under an obligation to report to the Board should the victim no longer be residing at home permanently.

One of the offenders was sentenced to life imprisonment on two counts of attempted murder. Another received 13 years for conspiracy to commit robbery, aggravated assault and use of a firearm. Two other offenders received eight and five years respectively for conspiracy to commit robbery.

The Board found that the application qualified under Section 5 (a) and awarded \$12,500.00 pain & suffering 7 (1) (d) a \$500.00 legal fee as well as disbursements of \$651.00 for a total award of \$13,651.00. In addition the Board ordered continuing monthly payments of \$1,000.00 a month under the conditions outlined in the Order.

FILE: 922-017346

This 37 year old public transit employee was driving a streetcar about 3:00 AM on January 31, 1986 when the offender asked to pay his fare with a credit card. When his request was refused he hit the applicant to the left side of the face, grabbed him by the clothes, dragged him off the streetcar and kicked him in the head, chest, side and back. When he threatened to cut the applicant, the applicant sprayed him with a can of dog repellent spray. The applicant then phoned for assistance.

The applicant was treated in emergency for an abrasion to the left knee, tenderness to his chest and

back and a human bite to the ring finger of the right hand. The applicant told the Board that he was particularly offended at being bitten. He recuperated at home for three weeks though he did not feel fully recovered until a month after that.

The applicant's solicitor advised the Board a statement of claim had been issued against the offender but that they had not been able to serve it. The applicant was advised of the Board's subrogated interest in the action.

The offender was sentenced to fifteen days in jail.

The Board found the applicant compensable under Section 5 (a) and awarded \$2,500.00 pain and suffering 7 (1) (d); \$78.00 other pecuniary loss 7 (1) (f) and disbursements of \$45.00 for a total award of \$2,623.00.

FILE: 922-017136

On September 30, 1986, the 45 year old applicant was twice assaulted by her husband, who was under the care of a psychiatrist. At 8:45 AM her husband chased her out of the house, pulled her hair and choked her. About 1:30 PM he punched her in her right eye causing bruising and swelling.

Out of fear of further angering her husband she did not seek medical attention till two days later when she attended the hospital. The injuries were diagnosed as soft tissue in nature.

On October 1 she reported the two assaults to police but did not lay charges because of her fear of retaliatory action. During the following four months she saw a number of specialists who report that the eye was significantly disfigured and that there was significant transient stiffness, pain or numbness of her face, neck, left shoulder and arms. Another report notes, "significant myofascial strain of the cervical spine". She commenced physiotherapy on a weekly basis. A psychiatrist reported that the applicant will not suffer any significant disability as a result of the injury.

No charges were laid against the alleged offender.

The Board found the applicant qualified under Section 5 (a) and awarded \$6,000.00 pain and suffering 7 (1) (d) a \$350.00 legal fee and \$350.00 disbursements for a total award of \$6,700.00.

FILE: 922-016406

The applicant, a 35 year old equipment operator, went to pick up his mail at the local post office on January 7, 1986. On his way home about 8:00 PM he was taking a short cut through a school yard when a man appeared

and struck him in the face knocking him to the ground. When he got up and grabbed his assailant he was again punched to the body. Another man armed with a baseball bat then appeared and struck his left leg three times. The applicant again fell to the ground. His assailants stole his wallet and fled the scene. The applicant crawled to a nearby house in great pain and asked for assistance. Police were called.

The applicant was taken to hospital by ambulance. An examination revealed a fractured left tibia and multiple lacerations to the left leg. He was given antibiotics and transferred to another hospital where the three gashes were sutured and a closed reduction on the tibia was performed. The applicant wore a hip cast, then an above-the-knee cast and finally a leg cast for a total of nine months in a cast. He was left with a thinner left calf and two bulges on his left leg due to muscular hernias as a result of the assault. X-rays taken on February 20, 1987 revealed that the tibia and fibula were both healing well. X-rays also revealed a lot of callus around the site. At the Hearing the applicant told the Board that he had an appointment in February, 1988 to remove callus from his patella. He has also been left with a permanent limp in his left leg.

The Board agreed to deal with the claim for loss of income under Section 25 after receipt of the appropriate documentation.

No charges were laid in this occurrence since the assailants were never apprehended.

The Board found that the application qualified under Section 5 (a) and awarded \$8,000.00 pain & suffering 7 (1) (d) a legal fee of \$500.00 and disbursements of \$255.30 for a total award of \$8,755.30.

Under a subsequent variation to this Order the Board awarded \$254.38 expenses (prescriptions, ambulance, cast, cane and crutches) 7 (1) (a) and \$3,566.87 loss of income 7 (1) (b) for a further award of \$3,821.25.

FILE: 922-016411

The applicant, a 26 year old unemployed man was attending a party involving thirty or more people on a farm about 11:00 PM on May 10, 1986. The applicant became aware that the owner of the house, who was not the host, had become displeased with a guest and had returned to the house to get a gun. The applicant, becoming concerned, entered the house and attempted to dissuade the offender when he came down the stairs with the rifle. This led to a struggle for the possession of the gun. The applicant lost his grip on it and was pushed back by the offender who then raised the rifle, aimed it at the applicant's groin and fired.

A friend drove him to hospital and the police were informed. A laparotomy was performed and surgical procedures instituted to repair 2 holes in the bladder and to remove a section of the small intestine, while a hole in the rectum was left to self-heal. The applicant continues to suffer from eliminatory difficulties.

The offender pleaded guilty to criminal negligence causing bodily harm and was sentenced to 12 months. In addition, the rifle was ordered destroyed and the offender forbidden to own or possess a gun for 5 years.

The Board found the applicant compensable under Section 5 (a) and awarded \$21.98 expenses 7 (1) (a); \$3,500.00 pecuniary losses-victim 7 (1) (b); \$7,500.00 pain & suffering 7 (1) (d); a \$500.00 legal fee and \$260.00 disbursements for a total award of \$11,816.98.

FILE: 922-012120

The applicant was a thirty year old general maintenance labourer who was assaulted in a tavern on April 7, 1983. The applicant testified that he and a friend had had a couple of beers before they decided, shortly after 11:00 PM, to drop by a tavern to have something to eat. They were told rudely that the kitchen was closed. The applicant said that his friend had been upset and made an insulting remark to the waitress. Two other customers then came to their table. When the applicant asked them what the problem was they responded, "You're with him." The applicant stated that he responded, "I can leave," but was struck on the side of the face. He and his friend then left for home and it was only a week later when the swelling of his face subsided that he noticed that his face was asymmetrical. He then consulted a doctor who sent him to the hospital for x-rays. He was admitted and operated on for a fractured left zygoma the same day. He stayed in hospital five days but it took the fracture about six weeks to heal.

The investigating police officer also testified at the hearing. He had interviewed two waitresses and the bartender who all stated that the applicant and his friend had been abusive to the waitress shouting and calling out rude remarks. Two other patrons, one in particular, had come to her rescue. The officer left a message at the tavern for the 'rescuer' to contact him which he did the next day. This man claimed that he had been playing darts in a side room and was drawn to the larger room by the commotion. He then saw the applicant and his friend shouting abuse at a waitress who was almost reduced to tears. He had approached the applicant and his friend telling them that their remarks about immigrants were inappropriate and then gave them five seconds to finish their beer and leave. When the applicant picked up his beer the offender feared that the applicant was going to throw it at him

and he had then hit the applicant in the face. The police officer told the Board that initially he had not intended to lay charges and did so only because after determining the extent of the applicant's injuries he felt that charges should be laid.

Faced with the contradictory evidence the Board accepted that of the waitresses, the bartender and the offender when it is at variance with that of the applicant. Though the Board is satisfied that the applicant's behaviour contributed to his injury it does not believe that it warranted the injury sustained.

The offender pleaded guilty to assault bodily harm and was fined \$300.00 or thirty days.

The Board found the applicant a victim of the crime of violence as defined in Section 5 (a) but had regard to the provisions of Section 17 (1) with reference to behaviour which may have directly or indirectly contributed to an applicant's injury as it awarded compensation of \$15.64 expenses 7 (1) (a); \$210.00 pecuniary loss-victim 7 (1) (b); \$600.00 pain & suffering 7 (1) (d); \$35.00 other pecuniary loss 7 (1) (f) legal fees of \$300.00 and disbursements of \$240.00 as well as \$53.00 to the police witness for a total award of \$1,453.64.

FILE: 922-014357

The applicant is a 53 year old woman whose son was killed June 7, 1985. According to verified information provided to the Board the victim had been drinking heavily from 5:30 PM on the afternoon of the previous day until the early afternoon of June 7th, without sleeping. He then got into an argument with the offender and accepted his offer to go out to fight. The victim was stabbed twelve times, the fatal wound a blow to the heart. The applicant was advised of the provisions of Section 17 (1) of the Act referring to a victim's behaviour which may directly or indirectly contribute to their injury or death.

The applicant made a claim for lost income and described the financial aid and practical assistance around the house provided by her deceased son. She estimated the financial help was approximately \$60.00 a week. The applicant however now receives Family Benefits of \$201.00 per month to which she was not previously entitled.

After careful consideration of the oral and written evidence the Board found the applicant had failed to prove a loss of income and declined to make an award. Nevertheless, it ordered the payment under Section 22 of travel expenses of \$59.00 each to the applicant and her solicitor and \$92.00 to a witness for travel expenses and witness fee for a total payment of \$210.00.

FILE: 922-013811

An extension of the limitation period was granted for this application.

The 18 year old applicant worked on a grounds crew. Earlier in the evening of October 7, 1982 he and his fiancée (File: 922-012711) had been socializing with his parents though according to his evidence they had not been drinking. The couple had decided about 9:00 PM to go for a ride. About 11:00 PM as they drove past a group the fiancée recognized a cousin among them. They turned the car to double back and as they neared the group the offender threw a beer bottle which smashed against the window and door of the car. The applicant continued driving until, his vision becoming obstructed because of the bleeding from his forehead, his car struck a concrete pillar at the entrance of a parking lot. He parked the car in the lot while he regained his composure.

The owner of a nearby arcade helped the applicant into his premises and cleaned the lacerations. Police then arrived and called the ambulance which transported him to the hospital. Five stitches each were required for lacerations to the forehead and the side of the nose. Another stitch was required for a laceration over the right eyebrow. These were removed by his family doctor a week later. The lacerations cleared up within three weeks leaving only some barely perceptible scarring. He still complains of recurring headaches.

The applicant continues to be concerned about reprisals from the offender. The police witness testified that the incident may have been related to the offender's response to some of the applicant's driving habits. An information for threatening was sworn by the applicant on October 25, 1983.

The offender pleaded guilty and was placed on a \$500.00 Peace Bond without deposit for 12 months. The charge of assault bodily harm was subsequently withdrawn.

The Board found the applicant qualified under Section 5 (a) and awarded \$20.00 expenses 7 (1) (a); \$1,500.00 pain & suffering 7 (1) (d); \$168.00 other pecuniary loss 7 (1) (f) and \$50.00 to a police witness for a total award of \$1,738.00.

FILE: 922-015966

The applicant was a 34 year old labourer who had previously provided shelter to the offender when he had been released from prison. About 7:30 PM on May 11, 1985 the applicant met the offender on the street where he was raising an uproar claiming that a lottery ticket of his, which had been stolen, had won a million dollars.

The applicant tried to reason with him then passed on to meet a friend and buy a pizza. Later in the evening while the applicant was having a coffee in a bar/coffee house someone reported to him that the offender was looking for him claiming that the applicant had stolen the lottery ticket. When he ventured into the street he met the offender who slapped his cheeks and tried to kick him. When the applicant blocked the kick the offender pulled out a knife and started swinging at him. In spite of the applicant's evasive moves he was eventually stabbed twice in the left side of his back. His cousin removed the knife and the offender unable to find it fled the scene. The applicant, not realizing the seriousness of the injuries, decided to walk home but the cousin called both police and an ambulance.

The applicant was taken to hospital. Both stab wounds were in the mid-axillary line, the first above the level of the nipple was explored, debrided and left open, the lower was at the level of the costal margin.

The patient was discharged in ten days time. He found he needed a great deal of rest and that he was unable to venture out even for a walk for ten days. Even at the date of the Hearing he continued to feel a "pins and needles" sensation about the wounds. He had been dependent on analgesics for pain relief. He testified it was three months before he began to feel much better. The applicant also suffered much emotional distress particularly because of the memory of his previous assistance to the offender.

The Board considered a claim for lost income. His doctor stated that though he had considered the applicant medically unfit to return to work from May 11 until September 1, 1985 the applicant had in fact returned to work two months after the occurrence and was able to do so only because of continuous high dosages of analgesics and his high work motivation.

The offender was convicted of aggravated assault and sentenced to five years imprisonment.

The Board found the application qualified under Section 5 (a) and awarded \$4,568.00 7 (1) (b); \$4,000.00 pain & suffering 7 (1) (d); \$46.00 other pecuniary loss 7 (1) (f) a legal fee of \$400.00 and disbursements of \$57.85 for a total award of \$9,071.85.

FILE: 922-010010

An extension of the limitation period was granted for this application. With the applicant's consent, this application was heard solely on the basis of the documentation filed.

On June 27, 1981 the applicant, a 36 year old male American artist, was residing in his summer home. He

had been repairing his water intake pipe when some local residents came along and gave him a hand. After the job was completed he invited them in to share some beer with him before they left. Later that evening they returned, but when the applicant refused them entry they forced their way in. Two of them left when he asked them to leave but the other two remained and proceeded to punch and kick the applicant when he refused them more beer. They then robbed him of money and travellers cheques. The applicant who was apparently unconscious for some period of time finally made his way to a neighbour's. He was first taken to the police and then to hospital.

The applicant suffered bruises and swollen eyes. He was also tender over both cheekbones and in the left jaw area. There was also a bruised and swollen upper lip. Further medical documentation was not available.

The offenders were convicted of assault bodily harm; the first was sentenced to five months, the second to sixty days.

The Board found the applicant qualified under Section 5 (a) and awarded \$168.00 expenses 7 (1) (a) and \$1,000.00 pain & suffering 7 (1) (d) for a total award of \$1,168.95.

FILE: 922-015954

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

This application was originally scheduled for hearing but due to a variety of motor vehicle problems neither the applicant nor his solicitor were able to attend and the Hearing was cancelled.

The 45 year old male applicant was present in the first offender's apartment on November 1, 1985. The applicant, a tenant in the same building, is a known alcoholic who had been imbibing before going to the first offender's apartment. The three offenders had also already been drinking freely and the drinking continued for about two hours after the applicant joined the group. An argument broke out which led to the offenders demand that he give them money and the use of his vehicle. When he refused to agree to this demand he was punched and kicked repeatedly by all three until he lost consciousness. When the applicant came to, he discovered that they had removed his trousers, car keys and wallet. He then tried to break through a window and escape but was overpowered, again repeatedly beaten and deposited in his own apartment. The offenders took some personal articles and made off in his vehicle. A neighbour contacted police who soon recovered the vehicle and most of the articles.

One of the offenders gave police a statement completely exonerating the applicant from any responsibility for the assault.

The applicant was examined in hospital and held overnight for observation. His face, nose and chest had all suffered bruises, the face more so on the left. X-rays of the chest indicated a possible fracture of the 7th and 8th ribs with no pneumothorax. Two bleeding lacerations in the right wrist required a total of nine sutures. The left elbow had suffered an essentially undisplaced fracture which required a cast for three weeks. After removal of the cast on December 3 the applicant began physiotherapy in which he made such good progress that by January 4, 1986 there was only a 4 degree deficit in extension of the elbow and minimal pain when he used a shovel. No serious permanent disability was anticipated by a specialist consulted. His personal physician anticipated that the applicant would be left with permanent scarring and numbness of his lower right lip and numbness at the base of his right thumb.

The three offenders were found guilty of robbery and sentenced to two years less a day plus five years weapons prohibition, two years less a day plus three years weapons prohibition and eight months in jail respectively.

The Board found that the application qualified under Section 5 (a) and awarded \$22.00 expenses 7 (1) (a); \$2,000.00 pain & suffering 7 (1) (d) a \$200.00 legal fee and disbursements of \$205.00 for a total award of \$2,427.00

FILE: 922-013618

The 58 year old female applicant was finding her way home on October 12, 1984 after having won the jackpot of about \$1,100.00 at a bingo parlour. She had just got off a bus and was walking the last block home when she suddenly heard someone running on the other side of the street and then a man turn and run towards her. She clasped the purse containing the money close against her body. The man grabbed the purse but she held on tightly and they both fell down in the street. He got up and pulled her along the street until he had torn the purse free. The alleged offender then fled towards a waiting van down the street and sped off. She made her way home and called the police.

The police took her to hospital where she was diagnosed as having suffered a fracture of the anatomical or surgical neck and right shoulder. Displaced bone fragments were also noted. She was placed in a triangular sling and swath and asked to return the next morning to get a more formal Velcro applied. The sling was replaced with a collar and cuff on

November 8 and she was given some gentle exercise to do. On November 22 it was arranged that she would take physiotherapy to increase mobilization of the right arm. The bone fragments were removed surgically in July, 1985 and more therapy was scheduled following the operation. At the time of the Hearing the applicant still had considerable discomfort and did not have full use of her right arm. She could no longer comb her hair, knit or do many of the things she had been used to doing.

The assailant was never identified so no charges have been laid.

The Board found the application qualified under Section 5 (a) and awarded \$1,530.00 expenses 7 (1) (a); \$4,000.00 pain & suffering 7 (1) (d); \$161.00 other pecuniary loss 7 (1) (f) a legal fee of \$350.00 and disbursements of \$125.00 for a total award of \$6,166.00.

FILE: 922-017459

Hearing held in camera.

The 27 year old applicant and his fiancée were asleep in bed about 4:00 AM on April 29, 1986 when they were awakened by the presence of a man in the room standing over the applicant holding a long knife to his throat. The offender threatened him with death if he did not do what he was told then held the knife to the fiancée's throat and, after cutting the electric cord from the waterbed, forced her to use it to tie him up. She was then forced to take the offender on a search of the apartment for drugs and objects to steal. He then raped her. Afterwards, he allowed her to go to the kitchen for a drink but, when she tried to escape, he punched her and threw her back on the floor of the living room where he again began to sexually abuse her. The applicant, who had previously forced off the blindfold and seen some of these events, had now managed to free himself. He grabbed a stick used to hold up the bedroom window and went after the offender who dashed into the bathroom and locked the door. By the time the applicant had forced the door the offender had got through the window and made his escape. The fiancée sought help from a neighbour who called police.

The fiancée was taken to hospital by ambulance while the applicant went to the police station. He was then taken to the hospital and later released. The applicant suffered greatly from post-traumatic stress. He availed himself of medical and psychiatric help and counselling. He began to drink heavily and had parted from his fiancée within two months of the occurrence. He has not seen her for some time. Though at the time of the Hearing he had not had a drink for ten months he must now avoid the bars where he used to spend time with

his friends. When his performance became too unreliable he was demoted and laid off at work. He still experiences nightmares about the occurrence.

The offender, who had gone missing from a half-way house, was convicted of sexual assault with a weapon, break and enter as well as other offenses and sentenced to ten years.

The Board found that the application qualified under Section 5 (a) and awarded \$360.00 pecuniary loss-victim 7 (1) (b); \$3,500.00 pain & suffering 7 (1) (d); \$73.80 other pecuniary loss 7 (1) (f) a legal fee of \$250.00 and disbursements of \$151.60 for a total award of \$4,335.40.

FILE: 200-9976

The applicant was a 29 year old man who was treated in hospital for injuries received on August 4, 1982.

Since the applicant was unable to attend the Hearing he was represented by his sister. The investigating police officer was also in attendance. According to a report prepared by the Board's investigator, which had been seen by the applicant, his sister and the police witness, police attended a pizza store at 2:08 AM on August 4, 1982 and found the applicant there in an inebriated condition. He was unco-operative with the police and gave them a false name and address. He gave the ambulance crew, who took him to hospital, a different name and address which also turned out to be false. When interviewed by police in the hospital his version of how he had come to be injured differed from that originally given. He was unable or unwilling to give them the full names of the people with whom he had passed the evening. When police tried to get in contact with him later they were unable to do so as they had no correct address or phone number. The applicant made no attempt to contact the police.

The applicant was treated in hospital for human bite wounds to his nose and left ear as well as multiple lacerations and contusions. He was discharged August 11, 1982.

Though the applicant's sister tried to explain his actions the fact remained that he had chosen to mislead the police with false names and addresses and not co-operated with them in their investigation. He had told the police at the pizza store he did not want an investigation.

The Board drew the provisions of Section 17 (2) to the attention of the applicant's sister. These empower the Board to refuse or order only reduced compensation if an applicant has refused reasonable co-operation or

failed to report an offence promptly to a law enforcement agency.

After having regard to all circumstances including the nature of his injuries as well as his lack of co-operation with the police investigation the Board refused to make an award for compensation in this matter.

FILE: 922-015737

This 53 year old unemployed applicant was assaulted by the offender in his own apartment on February 5, 1986. The applicant and the offender had formerly shared an apartment for approximately three years. The offender, at the time of the occurrence, was out on bail on a charge of assaulting the applicant. One of the conditions of that bail was that he not associate with the applicant nor be present in his apartment. On February 8, 1986 the offender, who had been asked to leave the apartment three months before, again because of a previous assault, returned to pick up some of his belongings. He was there for a couple of hours socializing. The applicant testified at the preliminary hearing that he was aware of the bail restriction on the offender though before the Board hearing he testified that he was not aware of the restriction.

The offender returned to the applicant's apartment that evening and joined him and two neighbours in drinking. The applicant's next door neighbour returned to his own apartment about 2:00 AM. Shortly thereafter the offender got into a dispute with the applicant, jumped up and grabbed a hammer and attempted to hit him on the head. When the applicant put out his right leg to foil the blow to the head, the leg received the blow instead. The offender now broke a glass and tried to stab the applicant in the face but cut his leg instead. Finally the offender tried to punch him but was restrained by the other guests. The applicant claimed that he then crawled to his neighbour's door by himself but according to statements taken by the police it was approximately an hour before he did so.

The applicant was taken to hospital by ambulance. He was admitted for nine days with an open comminuted fracture of the right tibia, a gash over the right mid tibia, a bruised right side of the face and a swollen upper lip. The wound was treated and the leg put in an over-the-knee cast. The applicant wore the cast for five weeks and a walking cast for a further eight weeks.

The offender was sentenced to a year for assault with a weapon.

The Board found that on a balance of probabilities the applicant was aware that the offender had been ordered to stay away from both himself and his

apartment. He also knew that the offender was subject to unprovoked outbursts of violence and had attacked him on previous occasions.

While the Board found the applicant qualified under Section 5 (a) it also had regard for the provisions of Section 17 (1) which direct it to take into consideration any behaviour on the part of the victim that may directly or indirectly contribute to his injury and awarded \$59.00 expenses 7 (1) (a); \$1,000.00 pain and suffering 7 (1) (d) legal fees of \$350.00 and disbursements of \$205.18 for a total award of \$1,614.18.

FILE: 922-017905

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was an OPP officer who was called at approximately 3:00 PM on October 9, 1986 to execute an arrest. The offender resisted and in the struggle which ensued both fell down a flight of stairs. The offender was subsequently apprehended.

The applicant attended the hospital out-patient clinic for treatment of his injured right hand. Upon examination it was revealed that he had sustained a twisted thumb. He was treated conservatively and advised to return for x-rays. These revealed a possible fracture and/or avulsions or dislocation. The swelling was very visible and the thumb tender. The applicant was advised to apply heat, rest and make use of painkillers. The patient reported to the Board that it took six months for the swelling and pain to subside.

The offender was sentenced to 30 days in jail plus two years probation on a charge of assault police.

The Board found that the application qualified under Section 5 (b) and awarded \$700.00 pain & suffering 7 (1) (d).

FILE: 922-015636

The applicant a 28 year old male taxi driver picked up the offender in the evening of May 14, 1985. He recognized the offender because of a previous problem and unfortunately was overheard as he attempted to advise his dispatcher. The offender got upset and punched the applicant several times on the right cheek and to the face. The applicant managed to hold the offender in a headlock until the police arrived and the offender was placed under arrest.

The applicant suffered a black eye, bruising and the loss of a tooth through dental surgery as a consequence of the blows. He lost two shifts of work.

The applicant was in hospital on the offender's trial date therefore was unable to testify. The charge of assault was dismissed for lack of evidence.

The Board found the applicant qualified under Section 5 (a) and awarded \$314.43 for expenses 7 (1) (a); \$70 pecuniary loss-victim 7 (1) (b); \$900.00 for pain and suffering 7 (1) (d) \$300.00 for legal fees and \$46.50 to a police witness for a total award of \$1,630.93.

FILE: 922-016991

With the applicant's consent, this application was considered solely on the basis of the documentation submitted.

The applicant, a retired 62 year old male on a disability pension, was suddenly and without provocation punched in the chest and knocked to the pavement while out walking in his neighbourhood on October 12, 1986. His left hip struck the curb in the fall and though x-rays revealed no abnormality he has been left with recurrent pains and discomfort in that area which have been slow to resolve.

The offender was sentenced to 30 days for assault bodily harm.

The Board found the applicant compensable under Section 5 (a) and awarded \$900.00 pain and suffering 7 (1) (d).

FILE: 922-016339

An extension of the limitation period was granted for this application.

The applicant was a 53 year old salesman working as a part-time taxi driver at about 11:45 PM on March 2, 1985 when he picked up the offender outside a hotel. There was little conversation as he drove the offender to a nearby residential area. When they arrived the applicant turned toward the offender and was struck from behind with a broken hockey stick. When he regained consciousness he made his way on his hands and knees to a nearby residence and persuaded the young resident to call police and an ambulance.

X-rays revealed two linear fractures in the right frontal parietal region. The admitting diagnosis in the hospital included concussion and significant head trauma. There were a total of six scalp lacerations requiring thirty-nine sutures. There was considerable swelling. Though his injuries healed well he continued to suffer from headaches and tenderness of the neck. The applicant also suffered from numbness in the right hand and later he began to experience leg cramps at night.

He has continued to see his family doctor and the neurologist on a regular basis. On March 15, 1985, he returned to work as a salesman out of determination and need despite the continuing pain.

The offender was found guilty of assault with intent to steal and sentenced to six months consecutive to another sentence on another charge.

The Board found the applicant qualified under Section 5 (a) and awarded \$130.00 expenses 7 (1) (a); \$789.85 pecuniary loss-victim 7 (1) (b) \$100.00 other pecuniary loss 7 (1) (f) legal fees of \$400.00 and disbursements of \$706.35. At the time of the original hearing the Board was unable to make the award for pain & suffering since it was awaiting a further medical report. This determination it made in a variation to the original Order made by way of a documentary proceeding on January 15, 1988. It then awarded \$7,500 pain & suffering 7 (1) (d) and authorized payment of a further disbursement of \$280.00 for a total award of \$9,806.20. At the time it issued this variation the Board drew the applicant's attention to the provisions of Section 25.

FILE: 922-016499

The applicant is a 38 year old building contractor who was attempting to complete a subcontract about 5:00 PM on October 12, 1985. The offender had dropped by to see the contractor but kept bothering the applicant, who was attempting to complete a troublesome job, with unwanted advice. Eventually, words were exchanged and the offender punched the applicant once in the face.

The applicant was taken to hospital with a broken left jaw which was repaired with interdental wiring and fixation. He has been left with a significant area of numbness on the left jaw, lower lip and chin, which will be permanent.

The offender was sentenced to a day and a \$500.00 fine on a charge of assault.

The Board found the applicant compensable under Section 5 (a) and awarded \$28.14 pecuniary loss-victim 7 (1) (b); \$2,000.00 pain & suffering 7 (1) (d); a \$350.00 legal fee and \$56.00 disbursements for a total award of \$2,434.14.

FILE: 922-012345

The applicant was a 21 year old woman employed in a military facility on July 15, 1983. At 1:30 AM she called her boyfriend to come and pick her up at the North Gate of the base. After waiting a few minutes she began to walk along the road expecting to meet him on the way.

She placed a pair of nail scissors in her hand as a protection. A driver soon stopped and offered her a ride which she refused. He persisted but she again refused and he drove off while she continued on her way. She had been walking for about five more minutes when she heard someone running in the bushes. When she looked up she recognized the same man who now came towards her yelling "I am going to kill you" and punched her in the face. She dropped a gym bag she was carrying in the road as she fell to the ground. The man dragged her across the shoulder of the road into the wooded area. Though she struggled and caused him some injuries he continued to hit her in the face. When he heard the sound of a car he covered her mouth. The applicant's boyfriend saw her bag in the road, stopped the car and then went to investigate the sounds he heard coming from the bushes. The applicant managed to get away and she and her boyfriend drove to a submarine shop and phoned police.

Police took the applicant to hospital where an open reduction was carried out on a depressed fracture of the nasal bone with a dislocation of the septum. Two of her teeth were also injured. The post-operative course was complicated. Medical reports indicate the applicant suffered a very severe post traumatic stress syndrome after this assault. She developed a strong phobia against the base and especially towards returning to her job there. The applicant described the fear, anxiety and emotional trauma which persisted for approximately five months. She still has occasional nightmares.

Despite extensive investigations by the OPP and the military police no offender was apprehended.

The Board found that the application qualified under Section 5 (a) and awarded \$30.00 expenses 7 (1) (a); \$1,816.00 pecuniary loss-victim 7 (1) (b); \$4,000.00 pain & suffering 7 (1) (d); \$25.00 other pecuniary loss 7 (1) (f) for a total award of \$5,871.00.

FILE: 922-015992

The applicant's son, aged fifteen at the time of the occurrence, July 9, 1985 had been swimming in a local park. He had been harassed by a group of boys making racial remarks which led to some of them being ejected from the pool and it then being closed. When the boy went to leave he was confronted by one of the boys swinging nanchuka sticks around his head. The victim then grabbed the plastic chain from his bicycle lock in order to protect himself. At this point the 56 year old offender came running across to demand that the victim stop bothering the youths. When the victim tried to tell him that he was the one being bothered the offender punched him in the throat and pushed him

back violently against the wall. Three independent witnesses who had observed the scene called police.

As a result of this assault the boy sustained serious injuries to his throat, both hinge joints of his jaw, consequent back pain and difficulties in swallowing and eating as well as mental depression. He was unable to swallow his own saliva let alone solid food. Though he had to visit his physician on a monthly basis for 19 months even then the difficulties were not completely resolved. Emotional trauma and depression persisted for two years. At the time of the hearing he had moved to a new school, made new friends, was doing well in his school work and feeling more self confident.

The offender was convicted of assault and fined \$200.00 or seven days.

The Board found that this application qualified under Section 5 (a) and ordered that the sum of \$5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to the credit of the victim. It authorized the payment of legal fees of \$300.00 and disbursements of \$300.00 for a total award of \$5,600.00.

FILE: 922-017412

The 73 year old applicant was driving to Good Friday services on March 28, 1986. The offender tried to pass him but was forced to remain behind. When the applicant stopped at a red light the offender rolled his car forward and bumped the applicant's car. The applicant got out of his car to check the damage and then went to speak to the offender. The offender got out and struck him on the left side of the head knocking him to the pavement. When the applicant got up the offender struck him again on the left side of the head knocking him to the pavement once more.

The applicant was taken to hospital where abrasions to the left jaw, facial bruising and swelling were noted. Skull and mandible x-rays proved normal so he was discharged with the head injury routine sheet. The applicant deteriorated progressively over the following four weeks. On May 4th he started to become confused, walked unsteadily, had a decreasing level of consciousness and began to complain of headache. When a CAT scan taken at the hospital showed large subdural hematomas the applicant was immediately transferred to another hospital where bilateral burr holes were drilled and the chronic subdural hematomas drained. Drains were put in place and removed three days later.

According to the extensive medical reports the applicant was followed up with CAT scans for a period

of six months. There were no neurological deficits. The applicant informed the Board at the Hearing that he has the occasional headache and still feels very nervous.

The offender was sentenced to 90 days plus three years probation for assault bodily harm.

The Board found that the application qualified under Section 5 (a) and awarded \$4,500.00 pain & suffering 7 (1) (d).

FILE: 922-015931

Hearing held in camera.

The applicant having been duly notified of the hearing and having failed to appear the Board proceeded to hear the application in accordance with Section 7 of the Statutory Powers Procedure Act.

About 1:30 AM on March 27, 1986 the 31 year old female applicant was asleep in bed with her eleven year old daughter. She was babysitting a friend's children during her absence in hospital. The applicant awoke to see a man armed with a knife before her. He sexually assaulted the applicant and her daughter (file: 922-015932). Later, after striking the assailant over the head with her bedside radio, the applicant was able to make good her escape. Police were called from a neighbouring house where she had taken refuge.

The applicant was taken to hospital where the sexual assault kit was administered. Two abrasions on her upper right chest as well as several other small bruises were noted in medical reports. The applicant was tearful, emotionally shocked and angry after the assault.

The offender was sentenced to four years for sexual assault.

The Board found the applicant compensable under Section 5 (a) and awarded \$4,000.00 for pain & suffering 7 (1) (d).

FILE: 922-017509

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The male applicant, the manager of a LCBO store, observed a customer attempting to leave the store with a bottle of liquor concealed in the arm of his jacket about 7:30 PM on July 18, 1986. After being challenged the offender left the liquor and attempted to leave, then punched the applicant on the left side of his face and nose. A struggle ensued and the manager was able to

pin him down. However, though the offender managed to free himself he was quickly apprehended by the police who had arrived on the scene.

X-rays were taken of the applicant at the hospital. A tiny fracture was observed involving the tip of the nasal bones. There was no significant displacement but an irregularity involving the right side suggested a second fracture without significant displacement of the cartilagenous structure. The facial swelling subsided in about two weeks though it took about five weeks for the tenderness in the fracture areas to clear up. During cold weather there is an ache in the nasal area.

The offender was sentenced to 45 days in jail for assault bodily harm consecutive to other convictions.

The Board found that the application qualified under Section 5 (a) and awarded \$800.00 pain & suffering 7 (1) (d).

FILE: 922-017357

The applicant was a 34 year old unemployed man who was attending a social centre on the evening of September 25, 1986. While playing pool he was struck from behind by the alleged offender, who had a prior history of extreme violence. The applicant's wife saw the assault.

The applicant was taken to the hospital emergency department by ambulance and admitted on September 26. His fractured mandible was reduced under general anaesthetic. Two large scalp and facial lacerations were also noted. He was discharged on September 28 and seen by the surgeon on regular postoperative visits. The wires were removed in the operating room of another hospital on October 22.

On the evening of the occurrence the applicant had not wanted to lay charges but several days later he and his wife went and gave a statement to the police. Subsequently he had a change of heart and again wanted the charges withdrawn out of fear of retaliation. He testified at the trial but of course could not identify the assailant since he had been assaulted from behind. His wife simply indicated that she was not a hundred percent sure of the identity of the alleged offender. The investigating officer testified at the Hearing that the reluctance of the applicant's wife to give a certain identification out of fear of the alleged offender was consistent with his reputation. The Board found that on the basis of the evidence before it the applicant was an innocent victim and his wife's inability to identify the alleged offender should not be held against him in view of the alleged offender's reputation.

The applicant had an estimate from a dentist and the

Board agreed to pay those expenses directly to the dentist upon presentation of the invoice. Since the applicant may be suffering further medical problems the Board drew to his attention the provisions of Section 25.

As previously indicated the offender was found not guilty of assault because of the failure to identify him.

The Board found that the application qualified under Section 5 (a) and awarded \$31.00 expenses 7 (1) (a); \$5,000.00 pain & suffering 7 (1) (d); \$17.00 other pecuniary loss 7 (1) (f) and expenses of \$81.50 to the police witness for a total award of \$5,129.50.

FILE: 922-016536

With the consent of the applicant through his counsel, the Board heard the application on the basis of the documentation filed.

The 46 year old male applicant was employed as a building superintendent. He had been asked for information (which he had given) by a duly appointed officer of the Ministry of Community and Social Services which resulted in the offender's girlfriend being cut off from welfare assistance. The offender came up to the applicant in the hallway of the building where the applicant was superintendent on January 2, 1986, put his arm around him in friendly fashion, and proceeded to assault him with numerous punches to head, chest and arms. An independent witness telephoned the police.

The applicant attended a hospital where fractured nasal septal bones were diagnosed and treated with a closed reduction of the fracture and a plaster splint. There were also bruises on both sides of the nose and in the periorbital area as well. The applicant submitted in an affidavit that permanent nasal polyps have developed as a result but there was no confirmatory medical documentation.

The offender was convicted of assault, fined \$350.00 and given 2 years probation.

The Board found the applicant compensable under Section 5 (a) and awarded \$2,000.00 pain & suffering 7 (1) (d) a \$300.00 legal fee and \$235.00 disbursements for a total award of \$2,535.00.

FILE: 922-013514

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The 23 year old male applicant and a friend were window shopping cars outside a dealership on June 2, 1984. When he heard an object strike the ground the applicant turned to ask the person why it had been thrown. He found himself facing three males and a female in their late teens or early twenties. He was knocked to the ground then his hair pulled back to present his face as a target and kicked repeatedly. His friend, who had also been attacked, was not around when he recovered after losing consciousness for a few seconds. While he searched for him he saw a police car, flagged it down and reported the occurrence.

The applicant went to the hospital at 4:00 AM, was treated for numerous facial injuries and discharged the same day. He saw his personal physician on June 5th. He then denied any loss of consciousness and complained mainly of pain and swelling especially about the left eye. There was much swelling and bruising about that eye as well as a large subconjunctival hemorrhage but his pupils were equal and reactive. There was no apparent dental injury but there was a undisplaced fracture of the floor of the left orbit, a blowout fracture. These facial injuries gradually resolved themselves, the fracture healing without complications, and no further complications were anticipated.

The police believed the applicant to be the victim of an unprovoked attack and expressed themselves favourably in regard to his attempt to prevent property damage. Though tentative identification was made of some of the assailants from police photos it was not considered definite enough to warrant arrests. Therefore no one has been apprehended in this occurrence.

The applicant's solicitor has apparently incurred disbursements, however in spite of requests dating back as far as January, 1985 no receipts have been provided. It is the Board's normal procedure to pay for disbursements only upon presentation of the receipts.

The Board found the applicant qualified under Section 5 (a) and awarded \$1,700.00 pain & suffering 7 (1) (d) and \$150.00 legal fees for a total award of \$1,850.00.

FILE: 922-017112

The 59 year old applicant, the reeve of an Ontario township, was assaulted about 10:00 PM, July 18, 1986, while inspecting a number of trees which had been blown down in a windstorm. Since the regular work crew were not available the reeve had gone out with his chain saw to help clear the road. A taxi came by and discovering the road blocked, two passengers jumped out shouting and swinging at the applicant. One of them

struck the applicant first, near the mouth and then, a second more severe blow to the left side of the head.

The applicant sustained a chipped tooth but the more severe injury was a perforated eardrum. He was initially treated conservatively but developed two separate infections, one in August, the second in October, which enlarged the perforation. In January 1987 a bone graft from his skull was used to repair the perforation. He continues to suffer from a slight loss of hearing in his left ear.

The offender was sentenced to a day in jail plus a \$500.00 fine or 20 days on a charge of assault bodily harm.

The Board found the applicant compensable under Section 5 (a) and awarded \$75.00 expenses 7 (1) (a); \$3,000.00 pain and suffering 7 (1) (d); \$46.00 other pecuniary loss 7 (1) (f) legal fees of \$350.00 and disbursements of \$261.00 for a total award of \$3,732.60.

FILE: 922-017512

An extension of the limitation period was granted for this application. With the applicant's consent through her solicitor, this application was considered solely on the basis of the documentation filed.

The 64 year old applicant was the proprietor of a small clothing store. Between 5:50 and 6:00 PM on October 13, 1984 the offender, who had bought a cowboy hat from the applicant several days before, entered and found his way to the back of her store. When she approached him to ask him what he wanted he turned and began beating her about the head with his fists. She lost consciousness and next remembered sitting on the steps outside her store. A passing taxi driver saw her there and had his dispatcher call the police.

The applicant was taken to hospital by ambulance. Examination revealed multiple bruises, abrasions and lacerations to her face, lips, and neck and subconjunctival hemorrhages in both eyes. There were several large hematomas about the applicant's face, nose, jaw and right parietal region as well as extensive bruising about her neck, upper chest, palate, tongue and the area below her tongue. She also sustained bruising on the right buttock, left side of the back, mid-left scapula, right thigh and both elbows. There was gross bruising and swelling about the left foot and ankle. X-rays revealed a fracture of the left lateral malleolus. While in hospital she suffered from unsteadiness, dizziness and a degree of amnesia consistent with concussion. She left hospital on November 6. Though she could walk without support by then her recovery was gradual. She sought treatment for post-traumatic stress syndrome.

The applicant submitted documentation in support of a claim for lost income because her store was closed for 23 days as a result of her injuries. The Board accepted the claim for a net loss of \$575.00. It would appear that the applicant was wearing a bridge which was damaged during the assault. The applicant was advised, if she had incurred any expenses in repairing the bridge, to notify the Board which could then consider a claim under Section 25.

The offender was found guilty of aggravated assault and sentenced to eight years imprisonment.

The Board found the application qualified under Section 5 (a) and awarded \$575.00 pecuniary loss-victim 7 (1) (b); \$4,000.00 pain & suffering 7 (1) (d) a legal fee of \$350.00 and disbursements of \$80.00 for a total award of \$5,005.00.

FILE: 922-012721

The applicant sought compensation on behalf of herself and her three children as a result of the death of her husband on March 24, 1984. After a February 5, 1986 Hearing held in camera so as not to prejudice the offender's appeal of his life sentence on a conviction for second degree murder the Board issued an interim award granting her \$500.00 per month as of March 1, 1986. The appeal petition was dismissed on June 15, 1987. At the Hearing on September 4, 1987 the applicant's solicitor provided up-to-date financial information and undertook to provide documentation which is now on file.

Based on the applicant's income tax returns for 1980, 1981, 1982 and 1983 the Board derived an average gross income from which it allowed 15% for deductions and 20% for personal use thus coming to a net amount which had been available to the family. The Board then calculated the net assets of the estate after insurance and death benefits. It also took into consideration the CCP survivor and orphan benefits as well as the Board's interim payment order and calculated the net loss to the time of this award. The Board ordered that the continuing net loss of income \$600.00 per month, be compensated by adjusting the monthly payment by \$100.00 as of February 1, 1988.

The Board found the application qualified under Section 5 (a) and awarded \$7,200.00 pecuniary loss-dependents 7 (1) (c) plus an increase of the monthly payments from \$500.00 to \$600.00 as of February 1, 1988. It also awarded legal fees of \$500.00 and disbursements of \$245.75 for a total award of \$7,945.75.

FILE: 922-015707

With the consent of the applicant, this application was considered solely on the documentation filed.

The applicant, a 60 year old man, was stabbed in the hand during an attempted robbery on a city street on March 21, 1985. The offender was scared away by the appearance of a man accompanied by a large dog.

Police were notified and the applicant was taken by ambulance to the hospital. A doctor evacuated a hematoma and repaired a cut to the ulnar digital nerve and an adductor tendon. The applicant feels the decreased sensation on one side of the thumb is a permanent problem.

Since no one was able to identify the assailant no charges have been laid.

The Board found the applicant compensable according to Section 5 (a) and awarded \$22.00 for expenses 7 (1) (a) and \$1,800.00 for pain and suffering 7 (1) (d) for a total award of \$1,822.00.

FILE: 922-014345

Hearing held in camera.

The application was brought forward by a mother on behalf of her son, born September 2, 1983, who was assaulted on December 30, 1984. He had been left in the care of a 15 year old male babysitter who later called the applicant to tell her that her son had been injured. She took the boy to hospital immediately.

The infant remained in hospital until February 22, 1985. His injuries have been documented in extensive reports. He had sustained brain damage probably from a whiplash type shaking injury. The infant was unconscious for ten days. As a consequence he now has limitations of vision and hearing, some speech difficulties as well as some paraplegia in the right arm and leg. There is probably intellectual impairment as well. Though the child has undergone extensive therapy the travel required for treatment is both expensive and disruptive to his routines. Though it would appear that his needs are being well met for the present the future is quite unknown. His special needs, particularly the trips for medical treatment, incur expenses for his family. The trips are particularly expensive since they involve travel, accommodation and meal expenses as well as the cost of babysitters for the children who remain at home.

The Board ordered an award for pain and suffering be deposited with the Accountant of the Supreme Court of Ontario to be held until the boy reaches eighteen.

However, upon application, that sum may be encroached upon earlier if needed for medical or therapeutic care which can not be covered from any other source. When he reaches the age of eighteen the money is to be deposited with the Public Trustee to be used for his benefit. At that time the Board would consider, again upon application, a variation to this Order under Section 25. The Board also ordered a payment of \$10,000.00 to the applicant for her future expenses related to special care, travel to medical treatment and babysitting costs. If this money is wisely invested it should produce a return of about \$800.00 per year which should substantially assist her with the expenses referred to which are currently costing her about that sum of money.

A young offender was found guilty and given a year's probation on a charge of assault.

The Board found that the application qualified under Section 5 (a) and awarded \$10,520.00 expenses 7 (1) (a) and further ordered that the sum of \$12,000.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until he reaches the age of eighteen and then deposited with the Public Trustee for a total award of \$22,520.00.

FILE: 922-016154

At the time of the occurrence the applicant was a 19 year old reformatory inmate. About midnight on April 6, 1986 he was approached by two males who asked him to beat up an inmate in another dormitory. He indicated that he had no such intention. They then punched him to the head and face. He did not fight back. When he got up for work he reported the incident to the authorities.

He had sustained an undisplaced fracture of the mid-portion of the nasal bridge with deviation of the nasal septum. He later underwent a septoplasty, cryosurgery and outfracture of his turbinates.

At trial the charges were withdrawn but the offenders were each placed on a peace bond of \$200.00 for six months.

The Board found the applicant qualified under Section 5 (a) and awarded him \$1,500.00 pain and suffering 7 (1) (d).

FILE: 922-014170

The sixty year old female applicant had just seen her visiting daughter to the streetcar about 10:20 PM May 5, 1985. As she was returning home she was suddenly jumped and pushed from behind by a male who

snatched her shopping bag containing her purse. She fell to the ground, hurting herself. The assailant ran off. The applicant picked herself up, returned home and called the police. The purse was later found in a neighbour's backyard.

The applicant saw her family doctor four days later and was treated for a severely strained third finger of her left hand and an abrasion on her left knee. The finger was still swollen two months later and there was still some restriction to its full straightening. The applicant has become more aware of others as well as afraid of going out alone.

No charges have been laid in this incident though the applicant was able to give a rough description of the assailant.

The Board found the application compensable under Section 5 (a) and awarded \$2,000.00 pain & suffering 7 (1) (d).

FILE: 922-016891

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was a 53 year old female waitress, who was assaulted in a restaurant on August 28, 1986 by a customer, who refused to leave. The female assailant pulled two wads of hair from the applicant's scalp leaving two small bald spots approximately 1-1/2" to 2" in diameter. Though the applicant claimed psychological upset the doctor reported she did not need treatment.

The offender was sentenced to 14 days in jail for assault.

The Board found the applicant qualified under Section 5 (a) and awarded \$400.00 for pain and suffering 7 (1) (d).

FILE: 922-017150

During the evening of March 17, 1986 the applicant, a 23 year old male electrician who was attending a gym, became involved in a dispute with another client about the condition in which he, the offender, had left some of the equipment. The offender then became quite angry and struck the applicant with an eight pound bar knocking him to the floor.

A friend took the applicant to the hospital for treatment. The police were called by the hospital. A laceration on the forehead required sutures. The applicant was also

sent for x-rays. He suffered from headaches for several months afterwards.

The applicant was off work from March 17 to 25 and worked part-time until the 27th. He quit his job the following June.

The offender was sentenced to six days in jail as well as a \$500.00 fine on a charge of assault with a weapon.

The Board found that the application qualified under Section 5 (a) and awarded \$900.00 pecuniary loss-victim 7 (1) (b); \$2,000.00 pain & suffering 7 (1) (d); \$150.00 other pecuniary loss 7 (1) (f) a \$350.00 legal fee and \$265.00 disbursements for a total award of \$3,665.00.

FILE: 922-014666

This matter was originally set for a hearing on March 26, 1987. Given the facts then available to the Board, it offered both parties an adjournment to enable them better to respond to the variety of issues raised. All parties indicated a desire to proceed and the alleged offender exercised from time to time his right to question the two witnesses at length. However, after the hearing had been in session for some time, the alleged offender raised serious objections to the applicant's testimony and stated, that on reflection, he could provide two other witnesses to provide testimony substantially at variance with his testimony. The Board exercised its discretion, given the fact that the alleged offender was not represented by counsel, and agreed to an adjourned hearing. The applicant, through his counsel, objected. On June 4, 1987, the date of the adjourned hearing, the applicant appeared with a new witness but the alleged offender neither attended nor produced additional witnesses.

Since there was wide variance in the opposing evidence at the original hearing the Board finds that the events which took place in the parking lot of a take out restaurant on May 26, 1985 were as follows: the 39 year old unemployed applicant pulled up into the restaurant parking lot with some friends and went to an adjacent telephone booth to place a call. As he did so the alleged offender, who was well known to the applicant, approached and words were exchanged. The alleged offender produced a knife and threatened the applicant, who then ran from the booth pursued by the alleged offender. Bricks were thrown during this pursuit, one of which struck the applicant on the right shoulder. Police were called and the parties were interrogated.

The applicant subsequently made his way to hospital. There he was diagnosed as having suffered a right trapezius sprain. The applicant testified that the shoulder remained extremely sore for three months.

Reports document the applicant's feelings of anxiety, tension and slight depression and note the strong emotional component to his physical symptoms. The doctor also relates this injury to a work injury which had taken place four to six years previous.

The alleged offender was charged with assault, weapons dangerous to the public peace and threatening but all three charges were withdrawn in court when the alleged offender entered into a bond to keep the peace.

The applicant submitted documents in support of a claim for net loss of income but taking into consideration all the documentation and the applicant's state of unemployment, the Board denied that aspect of the claim.

The Board found the applicant qualified under Section 5 (a) and awarded \$4,000.00 for pain and suffering 7 (1) (d); \$350.00 other pecuniary loss 7 (1) (f); \$225.00 for a medical report and fees for two witnesses at \$25.00 each for a total award of \$4,625.00.

FILE: 922-015043

On August 23, 1985 the applicant's 14 year old son was attacked in a mall by the offender in an apparent case of mistaken identity. The offender's home had been broken into the week previous and his son had been given the names of two suspects. When the father and son went to the plaza the son pointed out two youths in the group present as suspects in the break-in. One of these youths, the applicant's son, tried to leave and was assaulted by the offender who grabbed him by the throat and pulled him by the hair. The police were informed of the assault. The other youth and another, later identified, were charged with the break-in and gave the investigating police officer statements admitting their involvement. These statements did not mention the victim as a participant.

The victim was taken to hospital. When he arrived at 9:35 PM the hospital noted that he had scratches on his arm, wrist, back and neck as well as abrasions on his hands and a cut on his head. Because his head had struck a wall an x-ray was taken but proved normal. A diagnosis of a mild head injury and superficial abrasions and contusions was made. After his wounds were cleansed the victim was given a tetanus booster and informed of the head injury routine then discharged into his parents care. When his doctor saw the boy again on September 16 there were no longer any complaints related to the injuries received nor any physical abnormalities to be observed.

Though the victim's physical injuries cleared up in ten days he was emotionally upset by the occurrence and

suffered nightmares for a short period afterwards. His mother states he became more reclusive after the occurrence and gave up many of his social contacts. The victim agreed but gave no particular explanation.

The offender pleaded guilty to assault, level 1 and was fined \$200.00 or 8 days in jail.

The Board found that the application qualified under Section 5 (a) and awarded \$20.00 other pecuniary loss 7 (1) (f) and ordered that the sum of \$800.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until he reaches the age of 18. The Board also awarded a legal fee of \$350.00 and disbursements of \$121.00 for a total award of \$1,291.00.

FILE: 200-9787

On July 12, 1981 the 23 year old applicant was returning home after attending a picnic with his wife. They met a traffic slowdown and the applicant's wife, who was driving, pulled ahead to pass a slow moving vehicle. As they passed the applicant gave the finger to the occupants of that car, which drove up alongside the applicant's car at the next red light. The two occupants of the car got out and approached his car. He got out of his car and words were exchanged. The applicant received a severe blow to the chin and collapsed losing consciousness. Police and ambulance were called.

The applicant was taken to hospital where it was noted that he had sustained abrasions to the left forehead, a bruised left thumb and a Y-shaped laceration on the right side of his chin. The forehead was cleansed, and a tensor bandage was applied to his hand. Twenty sutures were required to close the laceration. In November, 1981 scar revision was undertaken, which though it has minimized the scar, has left the applicant with permanent cosmetic scarring which he has learned to live with.

The Board noted its concern that the alleged offenders had not been found guilty. However, on consideration of the evidence as a whole, and in particular the testimony of the investigating officer, the Board resolved whatever doubts it may have had in favour of the applicant. He advised the Board that a judgement was obtained in 1983 against the two offenders in the amount of \$3,589.25 plus pre-judgement interest but that no payment was ever received.

Though the two offenders were charged with assault bodily harm the charges were dismissed in court.

The Board found that the application qualified under Section 5 (a) and awarded \$20.00 expenses 7 (1) (a);

\$1,500.00 pain & suffering 7 (1) (d); a legal fee of \$250.00 and disbursements of \$180.00 for a total award of \$1,950.00.

FILE: 922-016629

The applicant, a 19 year old student, was walking home with two friends on January 18, 1986. A man and woman were walking on the other side of the street in the opposite direction. The woman called over to them asking if they wanted to fight. Her companion immediately crossed the street and punched the applicant in the face. He was momentarily stunned but soon saw his assailant fighting his friend on the ground. When the applicant attempted to pull the assailant off his friend and to hold him he was himself stabbed. Since he was bleeding profusely and so near his home he ran there and called the police.

Police drove the applicant to the hospital for treatment. Examination revealed a large stab wound to the lower left flank so the applicant was admitted immediately and sent on to surgery where the wound was explored and sutured. Fortunately the stab had missed all vital organs. The patient was discharged on December 20, 1986 and the sutures were removed on January 27, 1987. The wound healed well though the applicant remains concerned about the cosmetic aspect of the large remaining scar.

The applicant fell behind in his course to become a welding engineer technician as a result of this assault and eventually quit school. The Board agreed to compensate him for the lost tuition and expenses.

The offender was well known to the police and was sentenced to three years incarceration for assault with a dangerous weapon consecutive to a seven year sentence for an unrelated charge of wounding.

The Board found the application qualified under Section 5 (a) and awarded \$1,063.00 expenses 7 (1) (a); \$2,000.00 pain & suffering 7 (1) (d); \$43.05 other pecuniary loss 7 (1) (f) and disbursements of \$166.00 to the applicant's solicitor who waived a legal fee for a total award of \$3,272.05.

FILE: 922-015969

At approximately 1:30 AM on May 1, 1986 the applicant, then a nineteen year old university student, left a campus pub to drive home with two of her girlfriends. A male acquaintance asked them to give him a lift. The offender, who was drunk, tried to precipitate a hostile response and when friction mounted struck two of the women in the group. The applicant went to the aid of one of the women and was struck with a punch to the

left of her jaw. The blow knocked her to the ground and she lost consciousness temporarily. The offender fled the scene and the women drove back to the university residence where a friend notified the police.

The applicant attended the emergency department at the hospital. She was diagnosed as having a possible jaw fracture, prescribed analgesics, advised to apply cold compresses and discharged. She returned the next day and x-rays confirmed a minimally displaced fractured mandible. The applicant returned home to decide whether to follow through with surgery there or to go on to a larger city. She returned to the hospital where her teeth were placed in occlusion and the jaw was immobilized. Subsequent consultations with the dentist in another province who removed the intermaxillary wiring revealed that the fracture had actually been bilateral and that there was a depression in the area of the left cheek-bone. Further x-rays revealed a recently healed depressed fracture of the left zygomatic arch. This dentist concluded that these fractures had likely occurred simultaneously. It was also his view that the depression was likely to be permanent.

The applicant testified that she did not begin to feel better until mid-October. Physiotherapy has been recommended for her jaw but she has been much too busy to pursue it. She suffered from nightmares, anger and a sense of helplessness. She sought counselling and, though at first the counsellor felt that her emotional stability and academic progress were at risk, she has progressed well in the course of the counselling.

The applicant had claimed for lost income, but since she was unemployed at the time of the occurrence and unable to provide supporting documentation, this aspect of the claim was denied.

The offender was found guilty on two counts of assault causing bodily harm and sentenced to 30 days on each charge, concurrent as well as a year's probation and a five years weapon's prohibition.

The Board found the application qualified under Section 5 (a) and awarded \$268.85 expenses 7 (1) (a); \$4,500.00 pain & suffering 7 (1) (d) and \$130.30 other pecuniary loss 7 (1) (f) for a total award of \$4,899.15.

FILE: 922-012349

This application was heard at a Hearing on September 8, 1987 but a decision was reserved pending receipt of a medical report now at hand.

About noon on May 26, 1983 the 54 year old female applicant was making use of a public washroom when an arm reached under the cubicle to grab her purse. As

she fell forward the purse was loosened and disappeared with the offender. The applicant gave chase along a hallway and down three flights of stairs. She was able to grab the offender by the hair and reach for her purse but when he threw her off balance she fell and injured her left shoulder.

Medical reports filed with the Board refer to bruising and swelling of the left wrist, bruised and sore ribs and soreness in the left elbow, shoulder and on the left side of the head. She was later admitted to hospital for eight days cortisone treatment and physiotherapy. This was followed by nine months of physiotherapy three times a week. The patient still suffers from restricted mobility of the left shoulder. Three years after the occurrence the applicant developed a frozen right shoulder which was treated by a specialist until June, 1987. The treatment reduced the pain though there is still some restriction of movement in the shoulder and continued physiotherapy is called for. The cause of the frozen shoulder is unknown. The specialist speculated on the possibility that it was caused by compensatory overuse due to the injury to the left shoulder. In the absence of satisfactory evidence linking the October, 1986 shoulder problem to the injury in May, 1983 the Board was unable to find a link between the two.

Despite police investigation no offender was apprehended.

The Board found the applicant qualified under Section 5 (a) and awarded \$137.50 expenses 7 (1) (a); \$3,500.00 pain & suffering 7 (1) (d); \$150.50 other pecuniary loss 7 (1) (f) \$400.00 legal fees and \$500.00 disbursements for a total award of \$4,688.00.

FILE: 922-016556

On March 12, 1986 the 25 year old male applicant was an autobody worker who had subcontracted a job for the offender with the understanding that this money would be forthcoming when the applicant was paid by the client. The applicant phoned the offender and told him that he had received a cheque but could not cash it till the next day. The offender demanded immediate payment and turned up at the applicant's house at 9:45 PM armed with both a gun and a knife. The offender pushed his way into the house and pointed the gun at the applicant. When the applicant raised his arm to turn him away the offender slashed his wrist with the hunting knife. The applicant's father came to see what was going on and called police.

The applicant was driven to the hospital where the curved laceration across the distal forearm and wrist to the palm of the right hand was repaired with two layers of sutures. A pressure bandage was applied. Though no permanent consequences were contemplated the

applicant testified that he continues to experience pain and has some limitation of wrist strength. The applicant complained of stress and this was confirmed in a psychiatric report. Since the Board was not unmindful of future problems arising, as foreseen in the report, it drew the attention of the applicant and his solicitor to the provisions of Section 25.

The offender was sentenced to 90 days for aggravated assault, 90 days concurrent for offensive weapons, eighteen months probation and a five year weapons prohibition.

The Board found the applicant qualified under Section 5 (a) and awarded \$4,000.00 pain & suffering 7 (1) (d) legal fees of \$450.00 and disbursements of \$319.55 for a total award of \$4,769.55.

FILE: 922-014295

The applicant was the son of a seventy year old retired man working as a security guard on a construction site who was brutally murdered at work on April 15, 1985 by two men attempting to steal a generator.

The claim before the Board was for funeral expenses and continuing monthly payments to the applicant as a dependant of the deceased. The Board heard extensive evidence and was provided with legal submissions to establish that the applicant was a dependant under the Act. The victim had provided \$5,000.00 as a down payment on the house and had provided cash, groceries and gifts. The Board recognized that the victim's financial contribution had provided a welcome and appreciated improvement to the applicant's style of living but was unable to find him a dependant under the Act. The Board pointed out some of the financial benefits to the applicant following on the death of the victim.

The Board nevertheless found that the application qualified under Section 5 (a) and ordered payment of funeral expenses in the amount of the difference between the Board's maximum and the sum paid to the applicant by the WCB, \$1,200.00 7 (1) (a) as well as a legal fee of \$450.00 for a total compensation award of \$1,650.00.

FILE: 922-016619

The applicant was a 37 year old unemployed deaf mute living in a rooming house where she was sharing facilities with five other persons one of whom, the offender, was a prior acquaintance. On a couple of occasions in the past they had shared accommodations but this was a matter of convenience and not reflective of a common-law relationship. On January 4,

1986 the offender, who had been living in his own room for nine months, asked to move in with the applicant. She refused. An altercation ensued leading to a physical confrontation and injuries. The applicant was treated in hospital and discharged. She then bought and installed new locks on her door and spent the evening watching TV. About 4:00 AM the offender broke down the door, proceeded to beat her up and finally hit her over the head with a wine bottle. He then called an ambulance.

The applicant was taken to a hospital emergency department where widespread bruises and lacerations about the face and head were noted. The police noted a six inch laceration on her head. X-rays revealed a comminuted fracture involving the zygomatic arch on the left side. There was also a large hematoma on the left side of the scalp. The applicant was in hospital until January 14, 1986.

The applicant testified before the Board through an interpreter that it took a month for the swelling and bruises to subside. She suffered from headaches for a year. Both the applicant and a police officer testified to such extensive swelling about the eyes that they were swollen shut. This was also apparent in a police photo taken the day after the occurrence. Since the applicant is a deaf mute relying heavily upon her eyes and sign language she was left for the period immediately following the occurrence without an effective means of communication.

The offender pleaded guilty to assault under Section 245.1 (1) (b) of the Criminal Code (Canada) and was sentenced to four months with two years probation on condition that he have no contact with the applicant.

The Board found the application compensable under Section 5 (a) and awarded \$5,000.00 pain & suffering 7 (1) (d) and \$52.00 to a translator for the deaf for a total award of \$5,052.00.

FILE: 922-015541

The applicant was a 17 year old high school student playing basketball in the school gym on December 12, 1985, a "fun day", when the regular gym attire was not required. About 2:30 PM the offender, who was not a student in the school but had been given permission by a teacher to supervise the game, told the applicant to leave because he was improperly attired. The offender shoved the applicant about the gym until a teacher intervened but then followed the applicant down to his locker throwing him against the lockers and punching him to the left side of his face and kicking him in the stomach until several teachers intervened.

The applicant's family doctor noted a swollen and

tender bridge of his nose and a small cut on the right nostril but x-rays revealed 2 small fractures one in the lip of the nasal bone the other in the anterior nasal spine.

The applicant laid a private information against the offender who received a conditional discharge and a year's probation.

The Board found the applicant compensable under Section 5 (a) and awarded \$400.00 for pecuniary loss-victim 7 (1) (b) and \$1,000.00 pain and suffering for a total award of \$1,400.00.

FILE: 922-015384

The applicant, a 47 year old self-employed costume jewelry salesman, was driving home about 9:00 PM on November 26, 1985. As he was about to turn a corner a man suddenly ran into his car and fell to the ground. The applicant, afraid that he had injured a pedestrian, got out to investigate. As he looked at the man lying on the ground the applicant realized that he was masked. Suddenly a second man jumped out from shelter and struck the applicant on the head twice with a piece of steel. He then kicked the applicant in the groin twice before the accomplices fled in the applicant's car.

The applicant suffered a minor contusion to the head. The groin injury has been more troublesome. Though this injury was painful, tests showed both testicles to be normal save for the presence of a hematocele. However, two hydroceles formed later. The urologist advised that they be removed surgically. An aspiration provided temporary relief but the applicant's fear of surgery has led him to choose to continue with the present level of discomfort.

The applicant claimed a loss of income but the income tax returns submitted to the Board showed that the income received in the year following the injury was higher than in previous years. There was therefore no award for loss of income.

Despite police investigation no offenders have been apprehended in this occurrence.

The Board found that the application qualified under Section 5 (a) and awarded \$238.89 expenses 7 (1) (a); \$6,500.00 pain & suffering 7 (1) (d); \$50.00 other pecuniary loss 7 (1) (f) as well as a legal fee of \$500.00 and disbursements of \$244.00 for a total award of \$7,532.89.

FILE: 922-017271

An extension of the limitation period was granted for this application.

The applicant, an 18 year old student, was assaulted with a baseball bat while attending a graduation party about 1:00 AM on June 24, 1978. When he went outside with others to check out a disturbance at another party in the neighbouring house he saw the offender with a bat in his hand, asked him to put it down, but instead was struck down unconscious with a blow to the head.

The applicant was in the hospital 5 days with concussion, facial bruising and injury to the right ear canal. He was left with tinnitus in that ear, and an occasional lack of feeling in his right hand.

The offender was convicted of assault bodily harm and sentenced to 3 months and 2 years probation.

The Board found the applicant compensable as a victim of violence Section 5 (a) and awarded him \$4,000.00 pain and suffering 7 (1) (d); and \$17.50 other pecuniary loss 7 (1) (f) for a total award of \$4,017.50.

FILE: 922-018744

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

About 8:00 PM on July 19, 1987 the 79 year old retired female applicant was outside her home. The offender greeted her as he passed by. He returned later and asked to use her telephone. As he was about to leave after placing his call he turned around and asked for a glass of water. He suddenly turned on her, wrestled her to the floor and assaulted her. When the victim managed to get back to her feet she grabbed a knife on a pretext and the frightened offender fled the house. Police were then called.

The applicant attended the hospital. A medical report noted a bite mark on the left side of her chest, contusions on her biceps, left thigh, over her left eyebrow, on her left wrist and on both forearms. There was ecchymosis of the third metacarpal of the right hand. She had fractured her left pelvis as well as the left lower ribs. She was also quite emotionally distraught and under considerable stress. She remained in hospital until mid-September.

When she was able to return home she suffered emotional and physical sequelae including weight loss, decreased mobility and an altered outlook on life manifested by a post-traumatic stress disorder. The Board considered a claim for alterations to her house necessitated by the assault. However, it is the Board's policy not to compensate for alterations to victim's property and this component of the claim was disallowed.

The offender was convicted of aggravated assault and sentenced to eight years in jail.

The Board found that the application qualified under Section 5 (a) and awarded \$8,000.00 pain & suffering 7 (1) (d).

FILE: 922-015887

This application was originally brought before the Board by the applicant's father, the victim then being a minor. Since he has now attained his majority the application is carried forward in his name.

The applicant was a 16 year old male student who was attending a Halloween dance with his family on October 26, 1985. The applicant had gone outside to cool off. Meanwhile 4 youths had caused a disturbance and been ejected. The doors had then been locked. When the applicant saw the youths punching an elderly man he approached and asked what they were doing. The youth remembers little after this point except being punched, kicked and then punched again by one youth.

The applicant awoke to find himself lying in the parking lot. He was transported to a hospital where he was examined, x-rayed and released. His parents were told by the attending physician that the injuries seemed minor. He returned home and spent the next day in bed. When he woke up on the floor of his room screaming because of the pain in his head and began to vomit he was taken to another hospital from which he was transferred to yet another for diagnostic tests.

The applicant was diagnosed as suffering from a traumatic posterior fossa subdural hematoma. He subsequently underwent surgery after which he was very ill and encountered many complications including vocal paralysis, 12th cranial nerve paralysis etc. The post-surgical complications eventually resolved but the applicant had to undergo substantial therapy to regain his ability to speak and walk. The applicant was in intensive care for a month then spent another month in rehabilitation. Eight months later the doctor reported the boy seemed symptom free but stated that the question of full intellectual recovery could only be resolved by a judgement of the applicant's performance at school during the 3 months before Christmas. Two months after Christmas the doctor reported that the applicant was managing but not up to full capacity.

The applicant described to the Board the consequences of the occurrence on his daily living.

Though the occurrence was reported promptly to police and the applicant provided as good a description of the assailants as he could recall the police are not optimistic that the offender will be apprehended.

The Board found the applicant qualified under Section 5 (a) and awarded \$1,818.75 for pecuniary loss-victim 7 (1) (b); \$20,000.00 pain & suffering 7 (1) (d); \$400.00 legal fees and \$350.00 to the applicant's parents for a total award of \$22,568.75.

FILE: 922-014332

The decision on this application, originally heard on May 20, 1987, was reserved pending the arrival of further medical reports. The applicant, a 43 year old male machine operator, had left his hotel about 6:15 PM July 14, 1984 to take a walk in the park across the street from the hotel. When he saw two youths beating an elderly man he went to his aid. The attackers fled, the applicant helped the man to his feet and he headed back to his hotel. He had only gone a short distance when he was himself attacked. Three men held him by the feet, another three held his arms while the seventh punched and kicked him. He was then thrown against a railing while his assailants fled.

The applicant sustained multiple soft tissue injuries. There were contusions to chest, abdomen and legs. His right eye was swollen and bruised. The left side of his jaw was bruised and sore for nine months. The applicant was particularly concerned about the kicks to the kidney and groin since he had undergone kidney surgery some time previous. There was bleeding from his kidneys for a year. The applicant continues to suffer from back pain which he is attempting to resolve with the assistance of a pain management clinic. He also was obliged to take advantage of psychological counselling for two months to handle stress. The applicant was absent from work for six and a half months.

One offender was sentenced to sixty days for assault.

The Board found the applicant qualified under Section 5 (a) and awarded \$109.20, expenses 7 (1) (a); \$8,000.00, pain and suffering 7 (1) (d) legal fees of \$450.00 and disbursements of \$51.35 for a total award of \$8,610.55.

FILE: 922-016000

Hearing held in camera.

On June 14, 1985 the applicant, a 36 year old waitress who had previously suffered from cancer, had spent the evening out on the town with her brothers to celebrate a negative biopsy report. She had been attempting to sever a relationship with a boyfriend with whom she had been living intermittently. When she returned home she asked him to move out and then went to bed. She was later awakened by her boyfriend

but she refused his request for intercourse. He then forcibly tied her to the bed and assaulted her several times over a number of hours. After having forced the applicant to bathe he left.

She called family members who took her to the police and eventually to a sexual assault care clinic. Besides the ongoing emotional distress there were multiple bruises and abrasions on the applicant's neck, arms and legs. She attempted suicide about a week after the occurrence. However, she has come to realize that though her body had been violated her soul had not. At the time of the hearing she had found a steady job she enjoys and is engaged to be married.

The offender was given an 18 month consecutive sentence on a charge of buggery though a second charge arising from the incident was withdrawn.

The Board found the applicant qualified under Section 5 (a) and awarded \$1,000.00 pecuniary loss-victim 7 (1) (b); \$1,000.00 pain and suffering 7 (1) (d); \$40.00 other pecuniary losses 7 (1) (f) and continuing monthly payments in the amount of \$1,000.00 a month for eight months as well as \$68.00 for chiropractic and sports injury clinics for a total award of \$10,108.00.

FILE: 922-014811

An extension of the limitation period was granted for this application.

The applicant was a 30 year old female, who appeared before the Board with a friend to help with the translating since she speaks little English. The Board ascertained that the applicant was comfortable with his assistance. It offered the services of a professional translator but the applicant wished to proceed immediately because of all the delays which she had already encountered.

The applicant and her husband were both landed immigrants who had been united in an arranged marriage in Canada. They had one child at the time of the occurrence, another was born subsequently. On February 29, 1984 the husband got worked up about his wife and began stabbing her with a pair of scissors. He then took out a ceremonial sword and, slashing about in an unrestrained fashion, inflicted grave injuries on the applicant and her sister-in-law. The offender was finally subdued, the police were called and the applicant was taken by ambulance to the hospital.

The applicant had sustained multiple lacerations to the scalp. There were 2 stab wounds, one particularly deep, in the region of the left clavicle. Another near the breast had pierced the pleural cavity. There were severe lacerations to the wrist. As well there were

fractures of both the left and right radius and ulna. Despite the best efforts of plastic surgery extensive scarring of the wrists remains visible.

The applicant divorced the offender, who was sentenced to 9 years on a charge of attempted murder and 3 years concurrent on a charge of aggravated assault. The applicant has since remarried and is awaiting the return of her children from the country of her origin.

Having due regard for all the relevant circumstances the Board found the applicant compensable under Section 5 (a) and awarded \$4,500.00 for pain and suffering 7 (1) (d).

FILE: 922-014405

The applicant was a 35 year old female lab technician, who was taking a blood sample from a child, on March 1, 1985. The child's father, the offender, burst through the doorway yelling, and yanked the needle from the child's arm. As the applicant reached to swab the arm the offender punched her under her right shoulder, knocking her into the wall where she slumped, after straddling a garbage can, onto the floor. Staff who heard the commotion came to her assistance but had difficulty entering since the offender was standing in front of the door. The parents took their child and left.

The applicant immediately went to hospital where her injury was diagnosed as a mild trauma to her right pectoralis major. She both reported the incident to police and consulted her family doctor the next day. She was referred to another doctor whom she consulted on five occasions until November 8, 1985. This doctor reports that the applicant complained of pain in the muscles in the affected area and tenderness on direct palpation of the C4, 5 and 6 spinous processes. The applicant reported significant improvement with relaxation programming using biofeedback. Though the applicant was considered to be doing well and working full time on November 8 she was still complaining of soreness in her upper right arm, the shoulder and the right anterior chest. She was then attending therapy twice a week as well as carrying out a home exercise program.

The applicant continues to have a slight reduction of power in her right arm and takes medication for pain control. Because of a lack of sensation in her right fingers she has had to learn to make use of her left hand in some parts of her work. She underwent physiotherapy 38 times from May 21 to September 19, 1985.

The offender was found guilty of assault bodily harm and sentenced to 30 days imprisonment after a trial.

The Board found that the application qualified under Section 5 (a) and awarded \$3,000.00 pain & suffering 7 (1) (d) a legal fee of \$350.00 and disbursements of \$410.00 for a total award of \$3,760.00.

FILE: 922-011942

The 37 year old male applicant was a security guard on duty at a race track on October 30, 1983. A van drew up to the applicant's post at the East gate about 10:40 PM. When the applicant asked for their ID and two refused he informed them they would not be allowed to enter. They first verbally abused him then one of them got out of the van and grabbed the applicant. The driver told this man to cool it and pushed him away. But the offender kicked the applicant in the groin forcing him to the ground. The applicant ended up in the bushes about 25 feet from the gate. Another security guard appeared and led the applicant to the office. The police were called and the offenders arrested on the post.

The police took the applicant to hospital. Upon examination it was discovered that the applicant had a tender left temporal area and mandibular joint as well as tenderness to the left knee and right forearm. He was given the head injury routine and released. The applicant continued to complain of a painful right elbow and strong headaches. X-rays taken at the end of November revealed synovial chondromatosis. In December, 1985 the elbow was operated on and is now much improved. However, he continued to suffer from blackouts and dizzy spells till the spring of 1987.

The applicant was apprised of the provisions of Section 25 with regard to chiropractic bills and a payment for these expenses was later authorized by a variation to this Order.

The two offenders were charged with assault bodily harm. They were each given a suspended sentence, two years probation and were also ordered to pay \$400.00 restitution each. The applicant has recovered \$600.00 of this restitution.

The Board found the applicant qualified under Section 5 (a) and awarded \$207.66 expenses 7 (1) (a); \$2,668.00 pecuniary loss-victim 7 (1) (b); \$2,500.00 pain & suffering 7 (1) (d) and \$120.00 other pecuniary loss 7 (1) (f) for a total award of \$5,495.66.

FILE: 922-015037

About 10:00 AM on August 30, 1985 the 35 year old male applicant was at work as an employment counsellor at a Canada Employment Centre. At that time he received a phone call from the offender who wanted to be enrolled in a particular program but was

unable to convince the offender that he did not qualify for this program. A short time later the offender appeared in his office and sat in a chair at the applicant's desk. The applicant tried to explain to the offender that he needed an appointment to see him since other clients were already waiting. He asked the offender to leave several times but was finally forced to call the switchboard to arrange for a police presence. The applicant then got up and said that he had to speak to another client down the hall. The offender also rose, followed him and then struck the applicant from behind with a right elbow blow to his face. When the applicant fell to the floor the offender kept walking on and met the police who were arriving. He told them that he had come down to hit someone, had hit the applicant and that if felt good.

The applicant was taken to hospital by ambulance and kept two days in intensive care. His injury was diagnosed as a fracture of the left body of the mandible and of the subcondylar region. On September 1 the mandible and the maxilla were ligated under general anesthetic with the use of arch bar splints held to the teeth. This jaw fixation was removed on October 10. Elastics were put in place and the applicant given rehabilitative physiotherapy. He returned to hospital for the final removal of the wires on October 28. During this whole period and for some time after he was on a liquid diet. The rehabilitation program for the jaw muscles and the TM joints ran into several problems. Over 100 sessions of physiotherapy and the use of various types of occlusal splints were required. At the time of the Hearing the applicant continued to suffer from muscle spasms in the side of his face, pain in the jaw joints and still needed to wear an intraval appliance.

The offender was sentenced to six months in jail on a charge of assault bodily harm.

The Board found that the application qualified under Section 5 (a) and awarded \$7,860.00 pecuniary loss-victim 7 (1) (b); \$5,000.00 pain & suffering 7 (1) (d) a \$400.00 legal fee and \$475.00 disbursements for a total award of \$14,235.00.

FILE: 922-016849

The applicant was a 58 year old trainman in the lead locomotive of a train about 4:00 PM on June 21, 1986. As the train emerged from under a bridge the applicant was struck by a piece of slag thrown through the open window. The engineer, aware that his co-worker had been injured, brought the train to a halt, went to a nearby marina and contacted both police and ambulance. A witness had seen two youths near the train, one throw a piece of slag and both fleeing the scene. The witness followed one of the youths to his home.

The applicant was transported to hospital by ambulance. A 4 cm. laceration and a comminuted fracture of the left mandible were noted. The applicant was then transferred to another hospital for an open reduction of the mandible fracture. The surgeon noted that he had never seen so many small pieces of bony comminution in a mandible. Approximately 15 pieces were removed before the five remaining fragments were stabilized with multiple interosseous wires and an A.O. compression plate. A good occlusion was achieved and intermaxillary wiring was not required. The two lacerated ends of the severed mental branch of the mandibular nerve were sutured before the laceration and the incision were themselves sutured. The applicant was observed to have no mental nerve sensation and a decrease in the sensation of the mandibular nerve on the left side as well as a weakness of the jaw movement on the same side.

The applicant was discharged from hospital on June 28, 1986 and remained on a soft food diet until early October by which time he was feeling much better though continuing to suffer from numbness in the left chin area and a lack of muscle control around the left lower lip. After a period of time the compression plate became exposed and the applicant underwent further surgery for its removal on January 19, 1987. Over the next few days he experienced growing pain and swelling about the site of the incision. The wound began to drain so the applicant returned to hospital again on January 22. He was re-admitted for treatment of a post-operative facial infection. This responded well to treatment and he was again discharged on January 27. A few days later he was already feeling much better.

The applicant testified before the Board that certain situations demonstrate to him that his nerves continue to be somewhat shaken as a result of the occurrence. Dental work had also been required as a consequence of the injury. A crown was required for tooth 3.3, splinted to a crown on tooth 3.4 and a new lower partial denture. These expenses have all been covered by the WCB.

The applicant provided documentation in support of a claim for loss of income. He was absent from work from June 22, 1986 to August 22, 1986 including a vacation period from August 8 on. After considering all the evidence including the WCB benefits received the Board ordered a payment of \$2,783.79 with respect to the net loss of income.

The witness who had observed the youths was unable to identify them in a lineup. As a result no charges were ever laid in respect to this occurrence.

The Board found that the application qualified under Section 5 (a) and awarded \$32.60 expenses 7 (1) (a); \$2,783.79 pecuniary loss-victim 7 (1) (b) and \$7,000.00 pain & suffering 7 (1) (d) for a total award of \$9,816.39.

FILE: 922-016486

The applicant, a 32 year old police officer, was shot point blank in the side of the head at approximately 2:45 AM on February 5, 1986 after he had followed a car into an apartment parking lot to make a routine driver's identity check. He was sitting in the cruiser when the offender's first shot threw him sideways on the seat. The second shot completely shattered the front windshield of the cruiser. When the applicant managed to crawl out of the car and get to his feet, the offender knocked him to the ground then sat on his chest, put his gun in the applicant's mouth and fired three times. These three shots all misfired. The offender kicked the applicant repeatedly before returning to his car and fleeing after the applicant was able to call for help on his portable radio.

The applicant was in hospital for two weeks. He spent four hours in the operating room to repair the wound to the left temporal region and remove the bullet fragments some of which still remain. He was in extreme pain for the two weeks he was in hospital and the first three weeks after his return home. He has sustained a complete hearing loss in the left ear which continues to buzz and ring constantly. His memory and ability to concentrate have also been impaired.

Some nine months after the occurrence the applicant developed severe pain, described as unbearable, in the left side of his face. It took four months to bring this under control through the use of medications which continue to be required. There have been continuing problems with dizziness and a loss of the sense of balance. The severe emotional trauma have included besides the trauma of the occurrence itself the continuing pain and the concern for his physical recovery as well as concern for his future and his career.

Expert advice confirms that acute trauma normally persists for at least two years following such an occurrence. Happily the applicant was able to return to work in February, 1987. However, his hearing loss will make it impossible for him to return to his former job and the continuing problems with his memory and concentration seriously impair his ability to write the exams necessary for the advancement of what his superiors described as a very promising career. He has however set goals for himself which, considering the courage and determination he has hitherto shown, the Board feels confident he will achieve.

The offender was sentenced to 15 years for attempted murder.

The Board found that the application qualified under Section 5 (a) and awarded \$25,000.00 pain and suffering 7 (1) (d), the maximum under the Act, and a legal fee of \$500.00 for a total award of \$25,500.00.

FILE: 922-017634

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was a 24 year old housewife who answered a knock on the back door of her house at approximately 12:30 AM January 10, 1987. A male standing there asked who she was and when she acknowledged her identity produced a knife and stabbed her in the upper left side of the abdomen beneath the rib cage. He then said, "This is for your husband" and left. Her husband had testified against his co-accused in a robbery case and had received a letter in which his wife was threatened.

The applicant was taken to the hospital. The stab wound had made a very superficial laceration to the stomach, transverse mesocolon and pancreas with only the seromuscular layer involved in the stomach and the peritoneal layer over the pancreas. Fortunately, when she pulled back from the knife she avoided what could have been a very serious injury. The injuries were repaired in a laparotomy procedure from which she recovered expeditiously and without incident. There is, however, a possibility of a pseudocyst of the pancreas developing in the future.

The application was for pain and suffering and for 24 hour mothering care of the applicant's children provided by a friend. The Board found the request for 21 days and nights at \$12.00 per day a reasonable request and ordered compensation accordingly.

Though the applicant provided a good description of the offender no one has yet been apprehended in this occurrence.

The Board found the applicant qualified under Section 5 (a) and awarded \$3,500.00 pain & suffering 7 (1) (d) and \$252.00 to the friend for the care previously referred to for a total award of \$3,752.00.

FILE: 922-012677

Hearing held in camera.

This application was made by a 39 year old separated mother on behalf of a 15 year old son, the second of her three children, who had been a victim of sexual assault for approximately two years. At his own request the victim was first interviewed at the Hearing alone with his solicitor and then in the company of his parents. He had first met the offender in 1982 at a restaurant in the company of his father with whom he, his older brother and his sister were living after his parents separation and the departure of his mother. The offender

befriended the family and gradually became more involved with the victim in a series of athletic and social endeavours. The sexual encounters gradually developed when they were alone and though the victim felt uncomfortable with them he enjoyed the other activities and the individual attention provided by the offender. The parents felt no reason to suspect anything and felt that the offender was good and helpful to the victim who had been told to say nothing because it would cause problems.

In September the victim moved to another city with his mother and started high school. The offender moved to a nearby city about the same time and occasionally visited the city where the applicant was living. By this time the victim was becoming much more uncomfortable with the situation but felt guilty about hurting the offender. He started missing school, drinking and using drugs. Unable either to express his concerns to his parents or to deal with the pressure, he frequently considered suicide. He finally spoke to his mother in January, 1984 and she reported the situation to the police. However, this apparently only increased the boy's feelings of guilt and self-loathing and he found it difficult to talk to anyone, continued his substance abuse and stopped attending school. The destructive tendencies continued until he suffered a drug-induced seizure at the end of the summer of 1984 and entered a three month recovery program in a treatment centre.

At the Hearing the victim expressed satisfaction with the effects of this recovery program. He had found it reassuring to know that he was not the only one to have suffered this type of assault and the group discussions and staff support had helped him recognize and cope with his problems. He has returned to school where his grades and attendance have both improved. He expressed an interest in pursuing a career in outdoor education and was enthusiastic about his involvement the previous summer in the Junior Ranger program.

The Board allowed \$1,400.00 for the applicant's expenses but declined a claim for loss of income because of the inadequate documentation and the applicant's inability to establish a clear monetary value for the lost income. The Board noted that the applicant had purchased a business which had lost money in the previous year but from which she had made a small profit. Though this was less than what the applicant had anticipated the Board had no basis upon which to assess the potential of the business.

The offender was found guilty of sexual assault and sentenced to 15 days plus two years probation.

The Board found that the application qualified under Section 5 (a) and awarded \$1,400.00 expenses 7 (1) (a); \$110.00 other pecuniary loss 7 (1) (f) as well as a \$350.00 legal fee and \$110.00 to the victim's father for

his travel expenses to attend the Hearing. The Board also ordered that the victim be paid \$5,000.00 compensation on or after his 18th birthday in April, 1987 for a total award of \$6,970.00.

FILE: 922-016047

Hearing held in camera.

On October 8, 1985 this nine year old boy was reported missing. He arrived home the next morning at 7:00 AM naked except for his socks.

He was taken to hospital sleepy, frightened and fearful. He would not explain what had happened until later that day. Sticky dirt and blond hair were found about his nose and mouth. There was a linear rope mark about his neck with a knot-like criss-cross reaching to the left of his trachea. There were scratches and bruises over his shoulder, back, buttocks and left posterior chest. A rectal exam revealed peri-anal excoriation. The diagnosis was sexual assault. Further examination revealed an ecchymotic area to the right side of the sclera in the right eye as well as a subconjunctival hemorrhage in the right eye for which no explanation could be found. There was a large ecchymotic area with abrasions to the base of the penis and redness of the testicle. Dirty areas on the buttocks and back suggested that he might have been dragged over the ground.

A medical report states that the extent of the abuse was 'horrendous'. It was felt that the victim had probably been subconscious through much of it and had been 'left for dead'. The mother told the doctor of a three month period subsequent to the assault on the boy when he hid his head, had nightmares, threw tantrums and had misdirected anger against his mother. The boy was involved in counselling and saw a psychiatrist twice. The offender had returned to the neighbourhood and this was a source of great stress for both mother and son. The doctor felt that the boy might have further problems related to the assault.

The young offender was in secure custody after his arrest on October 8, 1985. He pleaded guilty to assault bodily harm in April, 1986 and on June 23, 1986 was sentenced to sixty days open custody followed by 13 months probation.

The Board drew attention to the provisions of Section 25 should there be further counselling or other expenses arising as a direct result of the assault.

The Board found the application qualified under Section 5 (a) and awarded \$80.00 other pecuniary loss 7 (1) (f) \$65.50 to a witness and ordered that \$7,500.00 be paid to the Accountant of the Supreme Court of

Ontario under Section 36 (6) of the Trustee Act to the credit of the victim to be held until he attains his majority for a total award of \$7,645.50.

FILE: 922-016014

Hearing held in camera.

An extension of the limitation period was granted for this application.

The applicant, who is now divorced from the offender, brought the application on behalf of her daughter. The child was 7 years old in August, 1984 at the time she revealed to her grandmother several incidents of sexual assault on the part of her natural father. The child attended the hearing. Though it was the stated purpose of the child's legal representative to have the child testify 10 minutes, questioning by the Panel Chairman was fruitless and the child was excused. Documentary evidence filed with the Board indicated that the abuse had extended over a period of time. The child had already undergone two years of therapy sessions with beneficial results but a report presented to the Board indicated that this minor, her younger sister and their mother had been and continued to be adversely affected by the abuse. The report indicates as well the possibility of further psychological problems surfacing and impacting on the child as she attains puberty and on into early womanhood. The Board drew to the attention of the affected parties the provisions of Section 25.

The offender was convicted and received a suspended sentence plus three years probation.

The Board found the minor child qualified under Section 5 (a) and awarded the applicant expenses of \$624.00 7 (1) (a). It ordered that \$4,500.00 be paid to the Public Trustee to the credit of the minor to be paid out at his sole discretion for assisting in the education and general welfare of the minor. At the age of 21 any funds remaining shall be remitted to the victim and the trust shall terminate. The total award was \$5,134.00.

FILE: 922-016475

Hearing held in camera.

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant is the mother of the victim, an infant son, who she had left in the care of his regular babysitter at approximately 7:30 PM, October 21, 1985 at her home. When she became aware that she had forgotten something the applicant returned home unexpectedly to discover an act of sexual abuse by the female babysitter in progress.

The babysitter was a ward of the Children's Aid Society who advised that both mother and child receive counselling at a counselling service of their recommendation. The counsellor reported to the Society on seven sessions attended by the victim and his mother. She reported that the infant had sustained trauma in four areas: nightmares, disruption of the mother/child bond, interactional problems with peers and confusion and anxiety about his genital area. By the end of the sessions the bright and engaging child with superior verbal skills no longer had nightmares and the bond with his mother had been re-established. The peer interaction problem was reported to be receding and was expected to diminish further as the child's ability to trust was re-established. His anxiety over play with anatomically correct dolls also receded under continuing reassurance and information. The social worker anticipated that long term trauma as the child reached puberty would likely be offset by the child's basic affability and optimism combined with the support of his very caring parents.

The offender pleaded guilty to the charge of sexual assault and was sentenced to three years probation.

The Board found that the application qualified under Section 5 (a) and awarded \$450.00 expenses 7 (1) (a) and ordered that the sum of \$1,500.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until he reaches his eighteenth birthday. The total award was \$1,950.00.

FILE: 922-017000

Hearing held in camera.

This application was brought forward by a Children's Aid Society with the assistance of and represented by the Office of the Official Guardian on behalf of a minor, born in 1970, a victim of repeated acts of sexual and physical abuse on several dates prior to and until February 7, 1985.

Though the abuse is medically proven the extreme resulting trauma has made it impossible to determine the details of the abuse or for the Crown to proceed with the appropriate legal charges against the father and the brother of the victim.

Since the abuse was discovered in February, 1985 the victim has been involved through the CAS with extensive and intensive therapy. Psychological reports filed with the Board describe a child with overwhelming amounts of anxiety, facing many difficulties who will need much special training to learn the skills of independent living. She will require much physical and emotional nurturing. From the evidence filed with the

Board and the testimony of social workers it is still much too early to assess the future impact of the traumatic experiences she has gone through. Her present needs are being fully met by the CAS. Her future needs cannot now be predicted.

The Board found the victim qualified under Section 5 (a) and ordered that \$12,000.00 be paid to the Public Trustee to be held in trust until she is eighteen and then paid out at \$100.00 a month until the fund is depleted.

FILE: 922-016008

Hearing held in camera.

On June 1, 1985 the applicant's four year old daughter had been playing at a friend's home up the street. As she returned home about 7:30 PM she passed by the neighbour's home where a 72 year old male pensioner was sitting on the porch with his dog. It was alleged that he called her up to the porch to see the dog, but then had exposed his penis to her, had her touch it several times and kissed her. Her brother happened to come along then and they later told their parents about the incident.

The parents discussed the matter and contacted police. The child had suffered no physical injury or violence but it was the Board's view that the evidence suggested that future counselling could be of assistance.

The alleged offender was charged and committed suicide on August 14, 1985 before he could be tried in court.

The Board found the applicant qualified under Section 5 (a) and since it found that it had insufficient evidence before it upon which to grant an award for pain and suffering declined to do so. It therefore reserved its decision for expenses regarding future counselling pending the receipt of written evidence. Under the provisions of Section 22 it awarded travel expenses of \$56.00.

FILE: 922-016117

Hearing held in camera.

The application was brought forward by the mother, with the assistance and represented by the Office of the Official Guardian, on behalf of a minor victim born in February, 1981. There were alleged repeated occurrences of sexual abuse of the victim by a neighbouring young offender until July 7, 1985. The abuse has been confirmed medically but the resulting trauma and the age of the victim have made it impossible to determine

the details of the abuse or for the Crown to proceed with appropriate legal charges.

Psychological reports filed with the Board describe radical behaviour changes including mood swings, nightmares and regressive bedwetting. The psychologist also reports unusual anxieties and fears for a five year old. The child was described as charming and intelligent with an extensive vocabulary for a child of her age.

The applicant and the agent from the Office of the Official Guardian were advised of the provisions of Section 25 in regard to further claims for psychotherapy sessions. An interim award of \$1,100.00 had been previously granted to defray costs of psychotherapy sessions.

The Board found the application qualified under Section 5 (a) and awarded \$120.00 expenses 7 (1) (a) and ordered the payment of the sum of \$5,000.00 to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until she attains her eighteenth birthday. The total award was \$5,120.00

FILE: 922-016942

Hearing held in camera.

The application was initiated by the victim's uncle but since she is now 18 the application continues in her name.

On October 17, 1986 the then 17 year old applicant was living with her mother and step-father, the offender. While the applicant was away at her part-time job the offender murdered her mother. When she returned home he struck her on the head with a claw hammer then dragged her onto a bed and sexually assaulted her. The offender tied her to the bed and attempted another sexual assault. She was tied to the bed for several hours before she was able to free herself. When she went to the living room she saw the offender lying to the left with a self-inflicted wound and the body of her murdered mother to the right. She finally managed to phone for assistance.

The distraught applicant was taken to hospital by ambulance. The hospital report noted dried blood in her hair as well as a red and swollen 4 x 3 cm abrasion in the right parietal area. Both wrists were surrounded by red linear marks. There were also red marks on her right cheek and both knees. She had slight injuries in the vaginal area. The rape kit procedure was followed. She was then released into her uncle's care but asked to return in a few days for a skull x-ray. On October 23 this x-ray revealed a depressed skull fracture involving

the superior anterior portion of the parietal bone in the mid-line area 2.5 cm long by 3.5 cm wide. The maximum depression was 5 mms. A neurosurgeon advised against treatment of the skull fracture. The applicant testified that she had suffered no ill effects from the fracture. She was absent from school and her job for several weeks incurring a loss of income.

The applicant resided with her uncle's family until June, 1987 when she took up residence with a cousin. She completed her academic year but when she began classes in September, 1987 she realized she needed a break. She has, however, continued working at her part-time job. She suffers from headaches, insomnia and incapacitating flashbacks which can last only minutes or up to an hour. Though she has the support of an extended family, an assessment report states that she is feeling inappropriate responsibility and guilt for her mother's death which is impacting negatively on her grieving and healing process. The report outlines a program of anticipated future support/assistance needs. The applicant was advised of Section 25 regarding any future expenses directly related to this occurrence. She advised the Board of her current plans for furthering her education.

The offender pleaded guilty to the murder of the applicant's mother. The circumstances of the attempted murder and the sexual assault were also presented before the court. He was sentenced to life imprisonment with no parole eligibility for 25 years. He had previously been convicted of non-capital murder in the death of his mother in 1965.

The Board found that the application qualified under Section 5 (a) and awarded \$300.00 pecuniary loss-victim 7 (1) (b); \$5,000.00 pain & suffering 7 (1) (d) as well as continuing monthly payments of \$300.00 a month for three years. The Board also ordered that her uncle be paid \$917.00 for funeral expenses, a witness fee and travel expenses to the Hearing. The Board also authorized a legal fee of \$350.00 and disbursements of \$453.00 for a total award of \$17,820.00

FILE: 922-016088

Hearing held in camera.

An extension of the limitation period was granted for this application.

The applicant was the mother of the victim who was nine years old when she was sexually assaulted by her step-father. She was first assaulted while visiting her step-father, who had visiting rights, with her two half sisters. All three children were asleep on a pull-out couch when the offender removed the other children and attempted, or completed, anal intercourse with the

victim. The victim woke up and ran into her sister's room. The children locked the door and the offender agreed to take them to their mother in the morning when the youngest child asked to be taken home. First he warned the victim not to say anything under threat of consequences to the family. On a second occasion the victim, who had kept silent, refused further advances but had her hands tied behind her back while the offender attempted vaginal intercourse unsuccessfully. When the offender attempted intercourse with the victim's step-sister, who was the offender's natural daughter, on another occasion that child spoke to her mother who then called the CAS and the whole picture was unfolded to the police.

The children attended the trial though fearful of their father's presence. The victim had not known, until advised by her mother after the second assault, that the offender was not her natural father. This information created additional confusion for the child. The victim became fearful of being out of her mother's sight, suffered continuing nightmares, became aggressive with her younger sister, angered easily, became tearful and had a serious dropping off in her academic standing which had formerly been in the "A" category. She did not respond to a psychiatrist. Though the family moved to seek a new environment and friends, emotional problems persist. A social worker has continued to provide assistance to the child but the parents are considering further psychiatric help since the victim is still very upset and displays a temperament very different than that natural to her before the assaults. Her mother keeps her involved in sports to help distract her.

The offender was sentenced to four months in jail plus three years probation after pleading guilty towards the conclusion of the trial to two counts of sexual assault.

The Board found the application qualified under Section 5 (a) and ordered that the sum of \$5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of The Trustee Act to be held to the credit of the victim until she reaches her eighteenth birthday. The Board also awarded \$179.50 other pecuniary loss 7 (1) (f) and the reimbursement of a day's wages, \$60.00, to the victim's new step-father, for driving the family to the court appearance, for total compensation of \$5,239.50.

FILE: 922-017219

Hearing held in camera.

Between September, 1985 and April, 1986 the victim and her sister (file: 922-017218) were occasionally left by their mother, the applicant, (file: 922-017217) in the care of a 14 year old boy as babysitter. In April, 1986 the victim's sister told her mother that the boy was touching

her in places he was not supposed to. This victim told her mother the same story when she questioned her. After investigation both the police and the CAS believed the girls' story. They received counselling through the CAS. The victim was obliged to attend another school since the alleged minor offender was a student in the same school. At the date of the Hearing the victim was much improved and getting involved in sports.

Because the alleged offender was a minor and the victims were too young to testify in court no charges were laid since the police considered it futile to do so and that it would only cause more emotional damage to the victim and her family.

The Board found that the application qualified under Section 5 (a) and ordered that the sum of \$3,000.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act and held to the credit of the victim until she attains her majority in 1998.

FILE: 922-016655

Hearing held in camera.

The application was brought before the Board by a Children's Aid Society on behalf of the victim, a minor ward of the Society. It is alleged that the 16 year old victim and another girl went to an auto body shop in the early evening of July 2, 1986. They left the shop but the alleged victim returned later that evening. She alleged that she was then sexually assaulted by the proprietor. She met a staff member from her place of residence on the way home and told her what had happened. Police were then notified.

The investigating officer testified before the Board that the child, of limited intellectual ability, was as incapable of lying as she was of repeating the same story twice on separate occasions unless she was telling the truth. She was taken to a hospital where a medical investigation revealed multiple bits of dark brownish material that looked like dry blood. An internal examination could not be carried out because of the alleged victim's complaints of pain and discomfort. The doctor's report stated his opinion that he was dealing with a girl who had had a first intercourse and that there was sufficient blood to support the facts she had given. The girl did not have the appropriate sexual words to describe what had gone on.

Professionals involved in the care of the victim are unable to predict the future impact of this occurrence. They believe, however, that when she does become sexually active she will encounter a period of significant emotional trauma arising from this incident though counselling does not seem a viable option.

Sexual assault charges were laid against the alleged offender but were withdrawn at a preliminary level when it was apparent that the child was incapable of giving adequate testimony in court.

However, the standard of proof before this Board is the balance of probabilities. Having carefully considered all the evidence and relying upon the medical documentation submitted and the testimony of the investigating officer, both of which the Board accepted, the Board found the child to be a victim under the Act.

The Board found that the application qualified under Section 5 (a) and ordered that the sum of \$3,600.00 be paid to The Accountant of Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the victim until she reaches her 21st birthday and then be paid out in three equal instalments on June 20, 1991, 1992 and 1993 to a trustee appointed by the Children's Aid Society or failing that to the Public Trustee. The Board also authorized the payment of \$82.50 to the police witness for a total award of \$3,682.50.

FILE: 922-014291

Hearing held in camera.

This application was originally initiated by the victim's mother but is carried forward in his name since he is now 18 years old.

The applicant, then a 14 year old boy, was working with a carnival on June 22, 1984. He had been invited to the offender's apartment for a beer, given several and, when he became drowsy, sexually assaulted. The applicant was struck several times as he tried to leave the apartment but managed to flee. He was very agitated while on the street and eventually taken to the hospital by ambulance where he was released later that evening though still very upset by the occurrence.

A psychologist who submitted a written report on the applicant and testified at the Hearing examined the applicant six days after the assault and substantiated the veracity of his account of the assault. He treated the applicant intensively from June 28 to December 19, 1984 though the treatments were later discontinued because the applicant would no longer attend. The psychologist continued to work through the applicant's mother and saw her on seven occasions between April, 1985 and December, 1987. He saw the applicant, diagnosed as suffering from a post-traumatic stress disorder, chronic type with sequelae of severe, agitated depression, severe anxiety states and a moderate to severe impulsive behaviour disorder, once again in February, 1983. The psychologist stated that this syndrome is a separate syndrome arising from a

traumatizing event such as a sexual assault and is not linked to the patient's prior history. His prognosis was guarded. He expected that the applicant would need therapy for up to two years to accomplish a satisfactory adjustment. The Board advised the applicant of the provisions of Section 25 regarding future costs for therapy. The Board agreed to pay the net cost of this therapy when submitted on a semi-annual basis and sincerely hoped the applicant would avail himself of the treatment to hasten his recovery.

The Board ordered the applicant's mother be reimbursed for a number of expenses met by her including the cost of therapy sessions above the amount covered by insurance, transcripts and \$1,750.00 paid to a solicitor to ensure a 'closed' court at the preliminary hearing and to assist the applicant to deal with his court appearances as the psychologist deemed necessary for the applicant's well-being.

The offender eventually pleaded guilty to sexual assault and was sentenced to 120 days in jail and 18 months probation.

The Board found that the application qualified under Section 5 (a) and awarded \$500.00 pecuniary loss-victim 7 (1) (b) \$5,000.00 pain & suffering 7 (1) (d) to be paid out in 30 monthly instalments of \$150.00 each; a \$700.00 legal fee; \$225.00 disbursements and \$2,579.15 as reimbursement for the expenses covered by the applicant's mother for a total award of \$9,034.15.

By a subsequent variation to this Order the Board authorized a payment to the psychologist for his attendance at the Hearing: \$125.00 expenses incurred 7 (1) (a).

FILE: 922-016816

Hearing held in camera.

An extension of the limitation period was granted for this application.

This application was brought by the Official Guardian on behalf of a minor child born March 6, 1984. The child was taken to a hospital on March 24, 1985 apparently on the insistence of the child's grandmother. The child's elbows and right leg were enlarged with limited movement. X-rays revealed old fractures of the left and right elbows, a swollen right leg with new bone formation at the right ankle and a possible chip fracture of the left knee. The infant also had some dermatitis behind the right ear and an inflammation below the lower lip. The child was immediately admitted for observation and investigated for possible child abuse. The hospital staff noticed that the child was unresponsive and sad whenever the parents visited

though happy and playful when with the staff members.

The mother admitted to police and the hospital social worker that the child was unwanted and that since she blamed the child for her marital difficulties she had abused her. Though there had been concern that the elbows might not heal properly medical reports indicate that the fractures are healing properly. The situation is still being monitored.

A picture of the child shows a permanent scar below the lower lip. There was nothing to indicate in the medical reports whether the inflammation which left that scar was a result of a crime of violence. The Board advised the applicant that it would consider any further evidence to document this under Section 25.

The child was made a Crown Ward and subsequently adopted. Though she was originally very frightened and subject to nightmares the child is now responding well in her new home.

The offender was convicted of aggravated assault and sentenced to a year in prison and three years probation. A psychiatric assessment was ordered as well.

The Board found this victim compensable under Section 5 (a) and ordered that the sum of \$5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held in trust for the victim until she reaches the age of eighteen in 2002.

FILE: 922-015558

This application was brought forward by the grandfather on behalf of his seven year old grandchild. On August 9, 1985 the minor's 25 year old mother was murdered. The minor was present in the home where the shooting took place though she did not witness the occurrence. The assailant, her mother's boyfriend, has left the minor with many negative memories. A psychiatric report notes the child's problems with her identity and a confusion about where she belongs. The relationship between her mother and the boyfriend had been stormy, psychologically threatening and abusive.

The psychiatric report diagnoses the minor as having suffered an adjustment disorder with mixed emotional features with depression, anxiety and anger. There is no present evidence of a thought disorder, although she may be more vulnerable when she faces her adolescence. The Board has taken the position in previous decisions that the injury defined in Section 1 (1) (d) of the Act may constitute a compensable mental or nervous shock to third parties who may not have received or sustained physical injuries as a result of a crime of violence when the nervous shock constitutes

a genuine emotional disorder or psychoneurosis so perceived and appropriately documented that it is clearly distinguishable from the grief or sorrow which would be considered normal in a particular tragic set of circumstances. The Board was particularly aided in its deliberations by the excellent medical reports and the related oral evidence as well as the representations of counsel. It is satisfied that the minor child has sustained such a genuine emotional disorder brought about by this tragic event.

The applicant had also claimed for loss of parental support. There is an order of the Provincial Court (Family Division) directing the child's natural father to pay interim support of \$70.00 per month into Court. To date no support has been paid. Final custody of the child was awarded to the applicant and his wife on March 27, 1986. Documentation on file with respect to the deceased victim's work history did not support a claim for loss of support therefore this aspect of the claim was denied.

The alleged offender committed suicide shortly after shooting the victim.

The Board found the application qualified under Section 5 (a) and ordered that the sum of \$5,000.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held to the credit of the minor until she attains the age of eighteen years. The total award therefore was for \$5,000.00.

FILE: 922-017339

On May 30, 1986 the applicant left her ten month old daughter with her babysitter. When she returned to pick her up about 4:00 PM the babysitter told her that there had been an accident. The mother looked at her child and saw that her face and neck were red and that her cheeks were bruised. The offender's story was that another small child in her care had overturned the applicant's baby in her seat and then knocked her against a door.

Fearful that her child had been seriously injured the mother immediately took her to hospital. The baby was examined there by three doctors who immediately reported the case to both the Children's Aid and the police since the injuries could not have been caused by another child but only by an adult.

Hospital records and photos filed with the Board indicate that she had multiple facial bruises as well as a subconjunctival hematoma in the left eye. There were no fractures. The baby was discharged three days later and has not required further treatment.

The applicant described to the Board the effect on her

of this assault on her child. She still gets very upset and has nightmares over the incident. She became over-protective and since she could not find a private sitter to whom she felt able to entrust her baby she was absent from her part-time job for seven weeks.

The offender was found guilty of assault and sentenced to fifty days in jail and two years probation.

The Board found the applicant qualified under Section 5 (a) and ordered the \$2,500.00 be paid to the Accountant of the Supreme Court of Ontario to the credit of the victim for pain and suffering to be invested and held for her until she reaches the age of eighteen. The Board also ordered the payment of the applicant's pecuniary loss of \$700.00 7 (1) (b) and other pecuniary loss of \$36.00 7 (1) (f) as well as legal fees of \$500.00 and disbursements of \$74.75 for a total award of \$3,810.75.

FILE: 922-013330

An extension of the limitation period was granted for this application.

The applicant, the mother of the victim born October 3, 1982, was living with the offender, the child's father. On January 3, 1983 the applicant took her daughter in for her three month checkup. The child was immediately hospitalized then transferred to another specialized hospital where she remained until March 14, 1983. The child was showing increased head size and a left retinal hemorrhage. X-rays showed diastasis of the sutures and a fracture. A CT scan also revealed moderate bilateral subdural hematomas. On January 7, 1983 the subdural hematomas were drained under pressure through burr holes. On January 17, 1983 the left subdural hematoma was aspirated through the coronal suture. Again on February 4 thick fluid was evacuated from bilateral posterior frontal and anterior parietal bone holes. On February 14 the burr holes were extended into a small craniectomy on the left side and the left subdural hematoma was drained. On February 25 a left sided subdural peritoneal shunt was carried out. Investigation in hospital revealed a healing fracture of the left humerus.

In May, 1985 the child was seen by an orthopedic surgeon regarding her walking on the left side on tiptoes. After a pediatrician diagnosed her condition her left leg was operated on in September, 1985. She was in a full leg cast for about a month. Since November, 1985 the child has been undergoing physiotherapy once or twice a month. She has also been attending monthly speech therapy sessions since November, 1985.

After the Hearing the Board received a report from the senior neurosurgeon at the specialized hospital who

stated that in her first year she had suffered an extremely severe physical injury and has been extremely fortunate to recover to the extent that she has recovered. She required five major procedures on her head and one on her left ankle. She is a delightful, very active little girl who has no seizures or headaches, whose speech is normal and whose future outlook is good though one cannot predict her skill progress at this time.

The applicant was advised of the provisions of Section 25.

The offender was convicted of assault bodily harm and sentenced to 2-1/2 years.

The Board found the application qualified under Section 5 (a) and ordered that \$10,000.00 be paid to The Accountant of the Supreme Court of Ontario under Section 36 (6) of the Trustee Act to be held on behalf of the victim until she attains the age of 18. It also awarded \$500.00 expenses 7 (1) (a); \$54.50 other pecuniary loss 7 (1) (f) and \$50.00 for a doctor's report for a total award of \$10,604.50.

FILE: 200-2846

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

This application was originally brought forward on September 3, 1976 as a claim for funeral expenses for the applicant's son murdered on April 28, 1976. The claim was for \$3,285.00 though as a result of his son's death the applicant received, from a variety of sources, amounts totalling \$30,416.22.

The Board's Registrar had requested further information in a letter dated September 9, 1976 drawing attention to what is now Section 17 (3) of the Act requiring the Board to take into consideration benefits paid to the applicant from any source. In a letter dated July 29, 1977 the applicant's solicitor informed the Board that he had been instructed to discontinue the application and the Board closed its file.

During July 1987 the Board was contacted by the victim's brother on behalf of his father wishing to proceed with the application. A request for an extension was filed stating that the applicant was unaware of this form of compensation until he read an article in a newspaper. In light of the original application this seemed a strange statement. The Board advised the brother of the existence of the original application and the subsequent withdrawal in a letter of August 26, 1987. The brother then replied that the applicant did not remember advising his solicitor to discontinue the

application nor did he know that his solicitor had been in contact with the Board. The Board also found this a strange statement since the applicant had been represented throughout the original application by solicitors.

Nevertheless, the Board re-opened the file and was informed by the brother in a letter dated October 27, 1987 that the application is based upon the same information as the original application.

The Board found, that based on the information filed, the benefits received by the applicant as a result of the victim's death far exceeded the amount of the funeral expenses. Without further documentation that the assets of the victim's estate were insufficient to cover the liabilities the Board, having regard to the provisions of Section 17 (3), denied the application.

FILE: 200-9756

The applicant, a 43 year old unemployed male, claimed that, as he was sitting in the kitchen of a friend's home in the late evening on July 13, 1981 with 2 friends drinking coffee after attending a funeral in Toronto, three masked men entered the house by three different doors and began firing hand guns at them. He claimed that he dived for the floor but that one of the gunmen came up to him and deliberately shot him in the knee. All, but the one who was lying unconscious on the floor, were ordered to the basement, where the gunmen tied them up and ripped out the telephone. A gunman remained on guard outside awaiting the owner of the house and another man who had left earlier. There were three pit bulls tied up in the yard but except for one dog's barking about 10 PM they made no disturbance.

The police were called to the residence about 2 AM the following day and a preliminary investigation rapidly brought to light major discrepancies between the story told by the applicant and his friends and the physical evidence on the scene. A police witness testified at the Hearing that approximately 25 shots were exchanged between the applicant's group and the gunmen. A neighbour reported hearing gunshots and a dog barking at 10 PM. Handwashings showed that the applicant and one of his friends had recently fired a weapon. The applicant gave varying versions of the occurrence during 4 or 5 interviews with the police in hospital, when he had recovered and was lucid and alert. The investigation was seriously hindered by the misinformation provided to the police. It was the police witness's opinion that the group had sat around from 10 PM till 2 AM concocting the story they told police. The applicant admitted to the Board that he did not tell the truth in order to protect his friends several of whom were known to the investigating officer.

When the applicant was admitted to hospital he was treated for a compound fracture of the right knee caused by a 22 calibre bullet which had entered through the medial aspect of the right knee and was embedded in the femoral condyle. The applicant refused to tell the hospital how the injury occurred. He recovered well but had to return to the hospital briefly because the wound became infected, dead tissue had to be removed and several hematomas had to be evacuated.

The applicant stated that he can only do physical work for 3 or 4 hours at a time but withdrew a claim for \$12,000 in lost wages.

The applicant and one of his friends were tried and convicted on a charge of obstructing justice. He chose 15 days in jail rather than pay a \$300 fine. His friend, who was wanted for murder in the U.S.A., was turned over to the U.S. authorities after sentencing.

The applicant told the Board he knew nothing of the circumstances surrounding the occurrence and suggested he was in the wrong place at the wrong time.

The Board did not find the applicant to be credible and found that he had failed to prove to the Board's satisfaction that he was a victim of crime in accordance with the terms of the Act and declined to make an award for compensation. Under Section 22 it awarded a police witness \$81.00 for his costs.

FILE: 922-017927

An extension of the limitation period was granted for this application.

This application was brought forward by the father of a previous applicant (file: 200-8480) whose request for compensation, after having been stabbed several times on the left side of his chest and abdomen in an altercation on April 1, 1981, had been denied by the Board. Since that applicant's behaviour had contributed to his injury the Board had based its denial of the application on the provisions of Section 17 (1).

This application presented a claim for out-of-pocket expenses including \$12,480.00 for room and board, \$200.00 for transportation to hospitals, doctors' appointments and rehabilitation, \$100.00 for personal items and \$100.00 for medication all provided to the alleged victim.

The Board ruled that in considering this application it was bound by the findings in the previous decision and that it was not prepared to re-examine the applicability of Section 17 (1). The Board having found that the alleged victim's conduct had led it to deny him

compensation in his application found that the same conduct led it to deny compensation to this applicant

The Board noted that though it was not required to rule on the additional issues which arose from the context of this application but it would do so in order to provide further understanding of its decision.

The applicant deemed himself to be "a person responsible for the maintenance of the victim" as set out in Section 5 (e). The onus was of course on the applicant to so satisfy the Board. The alleged victim was a 22 year old unemployed man at the time of the occurrence. The Order dealing with his claim noted that he appeared to have made a complete recovery from his wounds. The alleged victim did not testify at the present Hearing. Indeed the applicant testified that his son was unaware of the present application nor was it, in his view, of any concern to his son. Though this applicant admitted his lack of medical credentials he testified that in his view his son had been disabled until March, 1985. No medical documentation however was presented to support this aspect of the claim. The applicant provided some very general information about the welfare payments his son had received and out of which he had apparently paid his mother \$20.00 a week for room and board. However, the applicant provided no documentation in support of his claim for the expenses under the various headings previously listed.

The Board, moving beyond the considerations arising from Sections 5 (a) and 17 (1) of the Act and having carefully considered all the evidence, was not satisfied that the applicant was a person responsible for the maintenance of the victim under Section 5 (e) and further deemed that there was inadequate evidence to quantify the claim presented.

The offender, originally charged with attempted murder, was sentenced to two years less a day on a charge of wounding.

The Board, under the provisions of Section 22, ordered payment of \$300.00 to the applicant's solicitor for the professional services provided in bringing forward the application.

FILE: 922-018268

With the applicant's consent, this application was considered solely on the basis of the documentation filed.

The applicant was the 38 year old common-law spouse of a manager and part-owner of a restaurant who was stabbed to death on March 31, 1987 while he was trying to quiet some noisy patrons.

The applicant who has emigrated, applied for financial support for herself and a daughter born December 27, 1978, whose birth certificate bears the surname of the deceased.

Income tax records submitted to the Board indicate a wage income at the time of the victim's death equivalent to \$14,480.00 annually. The applicant will now be receiving monthly benefits from the WCB, CPP and from a life insurance policy in addition to the lump sums paid from those sources. There was said to be a debt outstanding but the lump sum payments themselves exceed the amount of the debt listed. The applicant will be in receipt of \$18,737.76 annually, an amount well in excess of her deceased spouse's reported annual income.

The funeral expenses were paid by the victim's employer.

The alleged offender was apprehended initially but has not yet been brought to trial.

The Board found that the applicant had not proven to its satisfaction that she had suffered pecuniary loss as a result of the death of her common-law husband and therefore declined to award compensation

FILE: 922-015218

The applicant was a 52 year old woman who stopped by to visit a friend on June 21, 1985 about 3:50 PM. Her longstanding friend had recently begun living with the male owner of a German Shepherd dog which was apparently allowed to run freely. The applicant had visited her friend twice previously while the dog was present without problems, once only two days before this visit. On this occasion she was greeted by the dog when she arrived; he licked her hand and she petted him. Later while she and her friend were having a cup of tea on the lawn, with the friend's fourteen month old child nearby in a playpen, the applicant leaned forward to touch her friend on the leg. The dog suddenly attacked the applicant from behind biting her about the head, right shoulder and both upper arms. It also clawed her back. With the help of her friend she made it back into the house where her friend called the police.

The applicant, who was taken to hospital by ambulance, had three scalp lacerations, of 12, 5 and 4 cms. respectively requiring a total of 80 sutures. She had also received puncture wounds to the right shoulder, upper back and both upper arms. Though the sutures were removed in about a week's time the applicant continues to suffer from a diffuse tenderness in the affected areas for which codeine has been prescribed. Extensive emotional trauma and a mild depression have resulted from this attack.

For any applicant to be compensable he or she must establish the existence of a crime of violence as described in Section 5 (a) of the Act. The constable who already had considerable experience of large dogs before he investigated this occurrence testified before the Board that he was alarmed by this dog. A Provincial Court Hearing in December, 1985 ordered the dog destroyed but by that time both dog and owner had disappeared. The constable testified that the police had been unable to find evidence of previous attacks by the dog. The applicant produced two affidavits, one claiming, but without direct proof, that this dog had been responsible for the death of his poodle and another that the dog had attempted twice in one day to bite at the legs of a female cyclist riding by. However, though the applicant testified her friend had claimed that the dog was a nuisance, there was no suggestion that it was violent nor did there seem to be any concern for the safety of the fourteen month old child.

The Board having given careful consideration to the evidence presented, accepting that clearly there had been a vicious attack with serious consequences for the applicant, was unable to find a history of violence on the part of the dog which would constitute criminal negligence on the part of its owner as described in Section 5 (a) and therefore denied the application.

However, under Section 22 it ordered the payment of \$450.00 in legal fees and \$180.50 in disbursements to the solicitor and travel costs of \$45.00 and \$46.50 to the applicant and the police witness respectively for total payments of \$722.00.

FILE: 200-9189

This Hearing was scheduled to be held in camera but the Board having considered the matters at issue proposed and declared the Hearing to be open. At the start of the Hearing the counsel for the applicant noted the presence with his counsel of an alleged offender, who had been involved in a civil suit with the applicant over the same matter which brought him before the Board. Since that action had been discontinued with both sides bearing their own costs the Board after discussion and reflection advised the alleged offender and his counsel that they need not attend the Hearing further and that, in the event compensation were to be awarded the applicant, there would be no order for subrogation against this alleged offender. These two then left.

At the time of the occurrence, February 7, 1981, the applicant was a 32 year old male recipient of WCB benefits employed as an apartment building owner/manager. On that evening the applicant and his wife were present at a very well-attended fund-raising event being held in a social centre. The highlight of the

evening's proceedings was a presentation of Italian folk dances. When this performance began about 21:00 the applicant testified that he and others stood up to get a better view. Others protested. The applicant testified that one of the three people seated at the table behind him got up to seize him but was restrained. The applicant then advanced to the front, was then pulled by the arm by an unknown person, knocked to the ground unconscious and sustained his injuries.

The applicant then went to the office of the Club's president where he also met the treasurer, who was present at the Hearing. The applicant testified that he urged them to seek out his assailant and to summon the police. He claimed he was told that they would see to everything and that they desired to regulate their own affairs without police involvement. This was his explanation for his prolonged stay in the office. About 23:00 he went to a pay phone with his wife and placed a call to the OPP. When the police arrived he took them to the area where the three people had been sitting but they were gone.

The police officer testified that at no time did the applicant inform him that he had been knocked unconscious. Had that been the case the officer would have sent the applicant to hospital in an ambulance. Nor did he inform him that two hours had already elapsed since the time of the assault. The officer also testified that the senior administration of the Club, including the member present at the Hearing, had informed him that the applicant had been a troublemaker that night and had started the fight by beating up an "old man". The treasurer testified that this was a terrible mistake since he was not passing on personal knowledge but only hearsay. He stated that he had been occupied either in his office or keeping an eye out for possible troublemakers in the parking lot.

The applicant had given the name of an offender in his original application. The police officer testified that the applicant had not given him this information even though he had been requested to pass on to the OPP any information which should come to his attention. Subsequently the name had been changed to that of the alleged offender referred to in the preamble to this order.

The applicant was then taken to a hospital where his injuries were diagnosed as a comminuted fracture of the mid-shaft of the ulna with a slight displacement of the distal fragment. Subsequently a bone graft and plate fixation were carried out. The bone union was uncomplicated but there was considerable wrist discomfort until the plate was removed. The applicant however suffered another break in virtually the identical area in June 1981 from a sudden movement while lying on the floor. He still feels pain, possibly a post-traumatic neuralgia, whose persistence is difficult to predict but the forearm is now well-healed.

The applicant's claim was basically for pecuniary loss and additional expenses incurred in the management of his apartment building because of his incapacity, for pain and suffering and a variety of miscellaneous expenses and disbursements in pursuing this application.

The Board in its determination whether or not the applicant was a victim of a crime of violence pursuant to Section 5 (a) also had to take into consideration the provisions of Section 17 (1) and (2). Sub-section (1) refers to an applicant's actions which may have directly or indirectly contributed to his injury while sub-section (2) refers to reporting and co-operation with law enforcement agencies. Guided by these statutory provisions and after careful consideration of all the evidence the Board found that on a preponderance of credible evidence the applicant had failed to establish that he was a victim of a crime of violence as stipulated in the Act. It therefore declined to make an award.

As noted no assailants had ever been identified, charged or convicted with respect to this occurrence.

The Board according to the provisions of Section 22 ordered the payment of legal fees \$450.00 and disbursements of \$783.00 for a total costs award of \$1,233.00.

FILE: 922-016465

This application was brought by a father on behalf of his 13 year old daughter who injured her left forearm in an incident at a public school on October 22, 1985. After the Board assured itself that she understood the nature and consequences of an oath the girl testified at the Hearing that about 8:30 AM that day she had gone into the school to get a drink of water. When she turned to go back outside, using the left side of a double door with wired glass windows in the upper half opening to the outside by the use of a panic bar, the alleged offender held the door shut. She did not attempt to exit by the right door since she felt the boy would only move over and hold that door shut as well. They could see each other through the window and, as the girl described it, they were smiling at each other. However, her hand slipped on the panic bar and her left wrist was bent back. She went to the school office to report her injury. The secretary called the father, the applicant, who drove his daughter to the hospital.

A teacher, who saw the girl in the school immediately after the incident, testified at the Hearing. He did not see any swelling or bruising but since the child complained of pain agreed that her father should be notified. He recalled speaking to the boy about his 'dumb stunt' but at no time considered this a police matter. Both children were in his view 'good kids'.

The applicant's daughter was at the hospital for about two hours. The doctor noted minimal swelling and tenderness over the left distal radius. An x-ray proved negative. The diagnosis was strain of the left forearm and the girl was advised to apply ice, wear a tensor bandage and rest the wrist for a couple of weeks. The girl returned to school that afternoon and wore the bandage for two weeks. Her left forearm and wrist were then back to normal.

This matter was not reported to police.

The solicitor indicated at the start of the Hearing that the applicant's position was that his daughter had been injured in a crime of violence namely assault. While it appeared from the evidence that the boy had initiated the incident by holding the door shut it would appear that the girl had been a willing participant in that type of playful activity often indulged in by thirteen year olds. The Board found that the girl's injury was accidental and not the result of a crime of violence as defined in Section 5 of the Act. The application was therefore denied.

However, under Section 22 the Board ordered payment to the solicitor of \$45.00 for hospital records and \$27.00 as a fee to the witness for total costs of \$72.00.

FILE: 922-016735

The applicant, then a 17 year old student, was injured in an altercation while tobogganing in a park shortly before midnight on December 27, 1985. The Board heard and considered the testimony of the applicant, the submissions of his counsel as well as the testimony of the investigating police officer. It also considered the transcript of the evidence at the trial.

The applicant told the Board that he had consumed 8-9 ounces of rye in the couple of hours that he was tobogganing prior to the occurrence and would have been impaired at the time. The Board noted that drinking by a minor in a public place is illegal. As the applicant climbed the hill he deliberately kicked a toboggan coming down the hill loaded with two passengers nor did he even turn to see if he had caused damage or problems. When he reached the top he told his friends what he had done and admitted before the Board that someone else might have thought that he was bragging about it. Later when the owner of the kicked toboggan, the offender, demanded an explanation for his action a scuffle immediately developed which was broken up by their mutual friends. The applicant felt that the result had been even since no one was hurt. Another scuffle broke out between the two 20 minutes later but was again broken up by their friends. By this time it seemed clear that the applicant was determined to settle the matter with a fight. He

persuaded the offender to go off about a 100 yards where they both took off their coats. The offender rapidly got the best of the applicant, knocked him to the ground and kicked him three times to the head. The applicant remembered nothing until he awoke in hospital.

The applicant was hospitalized for four days with multiple bruises and lacerations to the face and head as well as fractures of the right zygoma and the right orbital floor which required surgical repair. The injuries healed in about a month except for a continuing numbness on the right side of his cheek, nose and upper lip. There were headache problems for a year.

The Board considered carefully all the evidence submitted including the nature of the injuries and the continuing disability. Though it found the applicant to be an honest and credible witness whose demeanor did not suggest a person normally so ready to engage in a fight it was the view of the Board that his alcoholic consumption had influenced his careless and reckless behaviour. He had initiated the occurrence by kicking at the toboggan, a potentially dangerous action. He had been quite willing to get into two fights from which his friends had pulled him back. Despite that he went into a third fight in a place where he would not be disturbed. He had also willingly taken part in a fight with a stranger who had shown in the previous scuffles that he was ready to kick as well as punch. It would not have been unreasonable to expect that there would be kicking in the third fight. Though it was clearly reprehensible for the offender to have kicked him to the head after he had been knocked down, that was a matter for the criminal courts.

The Board after careful consideration of the applicant's behaviour and injuries concluded that his behaviour directly contributed to the injuries he received and cited the provisions of Section 17 (1) as it denied the application.

However, under Section 22 it authorized payment for certain costs in bringing forward the application: \$525.00 to the applicant for money owing to his father for medical and court records; \$60.00 to the police investigator for his appearance; \$350.00 to the solicitor for his assistance to the Board and \$35.00 for his travel expenses for total authorized payments of \$970.00.

FILE: 922-017394

The 21 year old male applicant, an industrial mixer, was involved in the incident, which led to his appearance before the Board, about 4:00 PM on October 15, 1986. The applicant, who appeared before the Board without counsel, found the investigator's report acceptable and though advised of the potential application of Section

17 (1) decided to proceed despite the Board's offer of an adjournment to permit him to arrange for legal assistance.

The applicant, who was seeing the offender's sister, had been warned by him to stay away from her and had agreed to do so. However, he met with the young woman at a friend's home, became upset with the warning, phoned the offender and suggested a fight or a discussion of the matter. An acquaintance then took the phone and set up the rendezvous. The applicant showed up armed with a baseball bat. The offender walked towards him armed with his own baseball bat. The acquaintance then passed the applicant a knife, which he claimed remained sheathed. The offender struck first knocking the applicant to the ground and then striking him repeatedly with the bat. He then kicked the applicant in the face. When the applicant agreed to stop seeing his sister the offender drove away.

The applicant's sister called the police the next day after having seen his injuries. The applicant meanwhile had attended the hospital where he was interviewed by a police officer who testified before the Board. She advised, that in her opinion, the fight was consensual and that after further investigation by the regional police both applicant and offender had been convicted of possession of weapons dangerous to the public peace and placed on probation.

Hospital x-rays showed that the applicant had sustained a complex comminuted fracture of the infra-orbital rim on the right side. The right side of the face was swollen. There was also a subconjunctival hemorrhage. An attempt was made to repair the right cheekbone but because of the complexity of the injury the applicant was transferred to another hospital where an operation was performed on October 19th to wire the bone fragments in the orbital rim. The nasal fracture was also repaired by open reduction and a splint applied. The splint and sutures were removed on October 27th and the applicant was able to return to work on November 3, 1986. No further treatment was undertaken and the applicant told the Board he was fully recovered. His nose was straight.

The Board found that the applicant was aware of the offender's ill-will, that he had called the offender and that his acquaintance had set up the meeting as part of the same call. By his own testimony he had expected a fight and had armed himself with a baseball bat. The Board accepted as well the testimony of the police officer that the acquaintance had carried a knife to the meeting place and, having determined that the offender had a knife, had given his knife to the applicant, who took possession of the weapon until it was dropped in the ensuing fight.

The Board in reaching a decision is guided by the

provisions of Section 17 (1) which directs it to have regard to all relevant circumstances including any behaviour on the victim's part which may have directly or indirectly contributed to his injury. Having considered all the evidence, both oral and documentary, it found that the applicant had failed to establish that he was a victim of a crime of violence as envisaged under Section 5 (a) of the Act and declined to award compensation.

FILE: 922-012976

The applicant having been duly informed of the hearing and having failed to appear, the Board under the provisions of The Statutory Powers Procedure Act proceeded to hear the application based on the documentation filed.

On September 7, 1983 the applicant's thirteen year old son was selling chocolate bars door to door. He was turning away from a door where there had been no answer when he suddenly heard a noise. As he suddenly turned in response a large dog jumped up at him and bit him on the left ear. The boy ran away bleeding while the owner who had been working on a car in the driveway with some friends called the dog back.

The boy was treated in hospital where 18 sutures were required to repair the laceration to his ear.

The incident was investigated by police and a hearing under the Dog Owners Liability Act was held on September 7, 1984. As a result the owner was ordered to have the dog well tied while on his property and kept on a leash when off.

In order for a victim to be compensable it must be established that a crime of violence as described in Section 5 (a) of the Act has occurred, in this case, an act of criminal negligence. It would have been necessary to prove that the owner knew the dog was dangerous and had shown wanton or reckless disregard for the lives and safety of others. The police could find no such evidence.

The Board concurred with the findings of the police investigation and denied the application. However, under Section 22 it reimbursed the applicant for the cost of a medical report for a total award of \$10.00

FILE: 922-013078

The applicant having failed to appear, the Board, pursuant to the provisions of Section 7 of The Statutory Powers Procedure Act, proceeded to consider the application on the documentary evidence filed and the oral testimony of one of the investigating police officers.

The applicant was a 23 year old employee of a car manufacturing plant who was attending a tavern about 1:00 AM on March 31, 1984. His brother had been outside with three women when two men made some derogatory remarks about the group before continuing on their way. The brother entered the tavern, sought out the applicant and informed him of this incident. The two brothers proceeded outside and down the street after the two men ostensibly to settle the score. They then each fought one of the two men. The applicant fought the larger, the alleged offender, in a fight which was not visible to the other combatants who were fighting around the corner. In any event a knife was drawn, the applicant received two stab wounds and these two combatants returned to the tavern by different routes. The police witness testified that the deceased, the alleged offender, did not have a reputation for carrying a knife and it was the belief of the police investigators that the applicant had produced a knife and that the other combatant, now deceased, had managed to wrest it from him and use it to stab the applicant.

After returning to the tavern the applicant told his brother that he had been stabbed, and then collapsed. It was the opinion of the police officer that the applicant had armed himself, possibly with a tire iron, and had collapsed before he could use it. The brother now informed a cousin of the events which had taken place and this cousin then confronted the alleged offender and in the ensuing struggle produced a knife and stabbed him. This cousin was arrested and ultimately sentenced to two years plus four years probation for manslaughter.

The applicant was taken to hospital, diagnosed as suffering from multiple stab wounds, hospitalized and underwent surgical repairs. He was off work from March 31, 1984 until May 14, 1984. Medical reports indicate he is fully recovered. The claim before the Board was for pain and suffering and the net wage loss.

The Board in awarding compensation and the amount thereof is guided by the provisions of Section 17 (1) directing it to take into consideration any behaviour on the applicant's part which directly or indirectly contributed to their injury or death. The Board found that the applicant, probably armed with a knife, had sought out the offender and provoked the fight in which he received his injuries.

The Board having regard for all the relevant circumstances, including the applicant's conduct, the gravity of the injuries, the period of convalescence and the prognosis for the future found that the applicant had failed to establish by a preponderance of credible evidence that he was a victim of a crime of violence as stipulated in the Act and therefore declined to award compensation.

FILE: 922-016996

The 59 year old applicant was a painter who arrived with a friend at a centrally located restaurant between 7:00 and 8:00 PM on October 30, 1986 after having consumed 7 or 8 beers over a 4 or 5 hour period in 2 other hotel bars. When the applicant went to the basement washroom he noticed a man in an adjoining cubicle. The man exited and disappeared. The applicant came out from the cubicle, was hit from behind, lost consciousness, then regained it to find a man standing on his thumb and kicking him in the ribs. When the applicant was able to escape he locked himself in a cubicle. The alleged assailant ran up the stairs and reported to the waitress that the applicant had fallen down them.

The ambulance arrived and the police were called. According to the applicant there was no police investigation because of the information relayed by the waitress. When asked why he did not report the occurrence to the police himself, the applicant responded that it was the job of the police to have approached him. The hospital records note that the applicant told the hospital staff he had fallen down the stairs. The applicant couldn't explain why he didn't tell the truth to the hospital staff. The sole injury mentioned in the emergency records was a deep laceration over the patient's left occipital area for which he received 4 sutures which were removed a week later. A month after the incident the applicant returned to hospital complaining of a sore right thumb. The hospital record states that the thumb was neither sore nor red. Other reports referred to periodic pains above the hip joint which were consonant with early arthritis possibly exacerbated by the applicant's injuries.

The alleged offender is unknown.

The Board having carefully considered both the 'viva voce' testimony as well as the documentary evidence on file found that on a balance of probabilities the applicant's evidence was not credible and that the applicant received his injuries as the result of a fall and not as the result of a crime of violence. Accordingly it found that the applicant had failed to prove to its satisfaction that he is a victim of crime within the terms of the Act and declined to make an award.

FILE: 200-9223

VARIATION OF ORDER: Section 25. Documentary proceeding.

In an Order dated March 27, 1986 the Board found the applicant's husband who was assaulted and subsequently died of his injuries on September 21, 1981 to be a victim of a crime of violence and awarded the

applicant funeral expenses. At that time it declined to make a finding on her application on behalf of herself and their five children born between 1968 and 1976 with respect to pecuniary loss pending the receipt of further documentation.

After a careful examination of all the documentation produced the Board determined the applicant to have sustained a net pecuniary loss of \$440.00 per month. The Board therefore ordered payment to the applicant on her own behalf and on behalf of her five children of the sum of \$31,240.00 representing an aggregate retroactive payment at that rate from October 1, 1981 through August 1, 1987 and continuing periodic (monthly) payments at the same rate subject to annual review and any material change in the applicant's personal affairs. Under Section 22 it also authorized the payment of \$500.00 legal fees, \$42.00 disbursements and a \$50.00 fee to the interpreter at the Hearing for a total award of \$31,832.00.

FILE: 200-158

VARIATION OF ORDER: Section 25.

At a Hearing held on April 28, 1971 the Board found that an application on behalf of her son, born September 26, 1964 qualified and ordered compensation paid to the applicant for a number of expenses. At the time the Board postponed determination of an award for the victim's pain and suffering and possible future loss of earnings with the intention of reviewing his physical condition and need for assistance from time to time.

On November 5, 1976 the Board ordered payment of \$200.00 per month to cover the period April, 1971 to October, 1976 and \$500.00 per month effective November 1, 1976 for pain and suffering.

During a review Hearing in January, 1988 the victim told the Board that he gets occasional employment at minimum pay rates but has been unable to obtain steady work. He felt that this was due to the scarring of his face and neck and the restricted use of his left hand. The Act was amended in November, 1986 to allow for increased maximum periodic awards of \$1,000.00 a month. The Board therefore ordered payment of \$7,000.00 to bring his monthly award from December, 1986 to January, 1988 up to the maximum amount. The Board ordered the continuing monthly payments to be paid in the amount of \$1,000.00 as of February, 1988 subject to periodic review. In accord with the original order, and at the request of the victim now the applicant, these payments will continue to be paid in to the Accountant of the Supreme Court of Ontario to the applicant's credit and held until he reaches the age of 25 on September 26, 1989.

The Board drew the applicant's attention to the provisions of Section 19 (2) (b) of the Act which states that the total periodic payments with respect to any one occurrence shall not exceed \$250,000.00.

FILE: 200-1287

VARIATION OF ORDER: Section 25.

After a Hearing held on August 25, 1976 the Board awarded this applicant \$6,000.00 for pain and suffering due to a shoulder injury.

The Board was advised that the applicant continues to suffer a great deal of pain from his injury. The applicant's physician states that physiotherapy and steroid injections have been of little benefit. He also suffered a stroke in October, 1985 that resulted in left hemiparesis and has increased the pain in the left shoulder. The degree of disability has increased somewhat though the pain level continues at about the same level as over the last ten years.

Under Section 25 the Board awarded the applicant a further \$4,000.00 for pain and suffering. It also authorized a payment of \$25.00 7 (1) (a) to the physician for his report. The total award under this variation is therefore \$4,025.00.

FILE: 100-332

This is a variation on an order originally issued in March, 1972.

The applicant was originally found qualified by the Board in a Hearing held February 29, 1972 and awarded compensation for pain and suffering. Now 57 years old, the applicant applied under Section 25 because of ongoing medical problems directly related to the injuries received on December 22, 1968.

The applicant both testified again before the Board and provided considerable documentation on dental, bladder and urethral problems through the 1970's and 1980's. The WCB has accepted the bladder problems as a consequence of the 1968 injuries and has paid his salary as well as the cost of medicines and dental treatment.

There have also been problems with sexual dysfunction but the medication prescribed had to be discontinued due to unwanted side effects. The applicant feared that he might require a ureticolios-tomy in the future. He was advised to contact the Board under Section 25 should this occur.

The Board found the application qualified under

Section 5 (b) and had regard for all the medical difficulties the applicant had encountered since the original Hearing as it awarded a further \$5,000.00 pain & suffering 7 (1) (d) and \$35.00 other pecuniary loss 7 (1) (f) for a total award under this variation of \$5,035.00.

CAS ON
AS 705
- R 21

ONTARIO CRIMINAL INJURIES COMPENSATION BOARD 1988-1989



Ministry of
the Attorney
General



Office of
The Chairman

Cabinet du
Président

**Criminal Injuries
Compensation
Board**

**Commission d'indemnisation
des victimes d'actes
criminels**

439 ave. University Ave.
17th Floor/17e étage
Toronto, Ontario
M5G 1Y8

The Honourable Howard Hampton,
Attorney General for Ontario,
Parliament Buildings,
Queen's Park,
Toronto, Ontario

Honourable Sir:

I have the honour to submit the Twentieth Report of the Criminal Injuries Compensation Board,
which covers the period April 1, 1988 to March 31, 1989.

Sincerely,

Wendy L. Calder

(Mrs.) Wendy L. Calder
Chairman

20th REPORT

of the
ONTARIO
CRIMINAL INJURIES
COMPENSATION
BOARD

administering
The
Compensation for
Victims of Crime Act for the
fiscal year April 1, 1988
to March 31, 1989.

The Board

WENDY L. CALDER
Chairman

LENNOX M.M. BIGFORD
Vice-Chairman

ANNE STANFIELD
Vice-Chairman (Part-Time)

Members (Part-Time)

ELI FREEMAN

JOHN D. V. HOYLES

RITA KAEDING

CELIA KAVANAGH

ROGER M. KIRKPATRICK

JAMES D. LANG

JOHN F. SANTOS

JUDITH STEPHENS-WELLS

TERESA TAIT

ANNE TOMJENOVIC

ROY A. YOUNGSON

V. P. GIUFFRE
Chief Administrative Officer

J. H. SHEARD
Chief of Investigations

F. G. SUTER
Manager Compensation Claims

Copies of this report may be obtained from:
Criminal Injuries Compensation Board 17th
floor, 439 University Avenue, Toronto, Ontario
M5G 1Y8
Telephone: (416) 326-2900
Fax No: (416) 326-2833

CRIMINAL INJURIES COMPENSATION BOARD

Types of Crime
as Listed on
Applications April 1, 1988
to March 31, 1989

Common Assault	883
Assault Bodily Harm	525
Aggravated Assault	72
Assault with Weapon	55
Causing Bodily Harm	
with Intent	15
Sexual Assault (All)	402
Assault Police	76
Resist Arrest	63
Attempted Murder	91
Murder	83
Manslaughter	7
Robbery	130
Criminal Negligence	28
Arson	7
Mischief Causing Danger	
to Life	3
Intimidation by Violence	5
Dangerous use of Firearms	5
Dangerous operation of	
Motor Vehicle	5
Hostage Taking	2
Kidnapping	1
TOTAL	2,458

NOTE:

The above statistics include 239 cases listed under the Criminal Code (Canada) and commonly referred to as "Child Abuse".

CRIMINAL INJURIES COMPENSATION BOARD

APPLICATIONS BY AREA
APRIL 1, 1988 TO
MARCH 31, 1989

Acton	2	Clarkson	1
Ajax	6	Clearwater	1
Alliston	2	Clinton	1
Amherstburg	2	Cobourg	5
Ancaster	1	Coboconk	1
Angus	1	Colborne	1
Apsley	1	Coleman Township	1
Arnprior	1	Colchester	2
Atikokan	2	Collingwood	2
Attawapiskat	1	Collins	1
Atwood	7	Concord	2
Aurora	1	Consecon	1
Aylmer	2	Cornwall	12
		Crystal Beach	2
Bancroft	2		
Barrie	18	Deep River	1
Beamsville	1	Deseronto	1
Beaverton	1	Dorchester	1
Beeton	1	Drayton	1
Belle River	1	Dresden	2
Belleville	14	Dryden	1
Belgrave	1	Dundas	2
Blind River	3	Dunnville	1
Bobcaygeon	1		
Bonfield	1	Edwardsbury Township	1
Bothwell	1	Eganville	2
Boyne River	1	Elgin	1
Bracebridge	1	Elliot Lake	2
Bramalea	2	Ennismore	2
Brampton	16	Espanola	1
Brantford	25	Essex	1
Brighton	1	Estaire	1
Britt	1		
Brockville	8	Fenelon Falls	1
Brown Hill	1	Flamborough	2
Burlington	9	Foleyet	1
Brussels	2	Fonthill	1
Burks Falls	1	Forest	1
		Fort Erie	7
Caledonia	2	Fort Frances	3
Callander	2	Fort Severn	1
Campbellford	2	Fruitland	1
Campbellville	1		
Cambridge	15	Gananoque	2
Cardinal	1	Georgetown	2
Cargill	1	Georgia Township	1
Carleton Place	2	Georgian Bay	1
Carlsbad Springs	1	Geraldton	1
Chatham	7	Glencoe	2
Chelmsford	1	Gloucester	7

Goderich	3	Minaki	1
Gordon Township	1	Minden	1
Grand Bend	2	Mississauga	32
Granton	1	Mitchell	1
Grassy Narrows	1	Moosonee	1
Grimsby	3	Moose Factory	1
Guelph	15	Mount Albert	1
Gull Bay	2		
Gwillimbury	1	Napanee	2
		Nepean	8
Haliburton	1	Newcastle	1
Halton	1	Newmarket	6
Hagersville	2	New Osnaburg	1
Hamilton	123	Niagara Falls	32
Harrow	1	Niagara-on-the-Lake	2
Hastings	2	Nipissing	1
Hawkesbury	4	North Bay	3
Hearst	1	North Buxton	1
Holiday Beach	1	Northbrook	1
Huntsville	2	Nottawasaga	1
Ingersoll	3	Oakville	11
		Oakwood	1
Kanata	1	Orangeville	2
Kapuskasing	2	Orillia	5
Kemptville	4	Oshawa	35
Kenabeek	1	Oshweken	1
Kenora	3	Ottawa	142
Kincardine	2	Owen Sound	5
King Township	1		
Kingston	50	Paris	4
Kirkland Lake	6	Parkhill	1
Kitchener	35	Parry Sound	3
		Peel Township	1
La Salle	1	Pembroke	15
Leamington	4	Penetanguishene	6
Lindsay	4	Perth	1
Lisle	1	Petawawa	2
London	92	Peterborough	9
Loretto	1	Petrolia	1
L'Orignal	1	Pickle Lake	2
Lucan	1	Pickering	12
Lucknow	1	Picton	1
		Plummer Township	1
Madoc	3	Point Edward	1
Markham	3	Port Colborne	6
McArthur's Mills	1	Port Dover	3
Midland	8	Port Hope	4
Millbrook	3	Port Perry	1
Milton	2	Prescott	2

Providence Bay	1	Timmins	8
		Toronto	1000
Rainy River	1	Trenton	12
Renfrew	2		
Red Bay	1	Upsala	1
Red Lake	2		
Richmond Hill	4	Vanier	3
Ridgetown	1	Vankleek Hill	1
Rodney	1	Vienna	1
Rosehall	3	Vineland	1
Roslin	2		
Round Lake Centre	1	Walkerton	2
Russell County	1	Wallaceburg	5
Ruthven	1	Wardsville	1
		Wasaga Beach	4
Sarnia	10	Waterdown	1
Sauble Beach	1	Waterloo	14
Sault Ste. Marie	23	Wawa	1
Schreiber	1	Welland	19
Sebringville	1	West Montrose	1
Seine River Reserve	1	Westport	1
Shannonville	2	Whitedog	1
Simcoe	3	Whitby	7
Sioux Lookout	6	Wikwemikong	1
Slate Falls	1	Winchester	1
Smith Falls	7	Windsor	80
Smithfield	1	Woodstock	5
Southampton	2	Worthington	1
South Porcupine	1	Wroxeter	1
Spring Bay	1		
Spring Hill	1	GRAND TOTAL	2458
St. Catharines	38		
St. Clair Beach	1		
St. Thomas	8		
Still River	1		
Stittsville	1		
Stoney Creek	8		
Stouffville	2		
Stratford	3		
Strathroy	1		
Sturgeon Falls	3		
Sudbury	29		
Sutton	1		
Sydenham	1		
Tecumseh	1		
Thorold	4		
Thunder Bay	49		
Tilbury	4		
Tillsonburg	6		

Program Description

The Legislation

The legislation under which the Board functions is the Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967. The Board is required by the Act to find the commission of a crime of violence (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies. Section 6 of the statute prescribes a one year limitation period of filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 322 requests for extension of the limitation period were approved and 11 were denied.

Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums: In the case of lump sum payments, up to \$25,000.00 and in the case of periodic payments, up to \$1,000.00 per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is \$12,500.00.

Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to

injury or death. The sum of \$56,508.00 was recovered during the fiscal year, compared to previous years, as follows:

1987/88	\$52,352.00
1986/87	61,962.00
1985/86	68,729.00
1984/85	62,991.00
1983/84	38,679.00

Hearings

The Board, composed of a full-time Chairman, one full-time Vice-Chairman, one part-time Vice-Chairman and eleven part-time members, usually sit in panels of two. Although a large number of Hearings were held in Toronto, during the fiscal year Hearings also took place in Thunder Bay, Sudbury, Sault Ste. Marie, Windsor, London and Ottawa. This is done routinely to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

Documentary Evidence Hearings

Some applications are relatively minor and simple of adjudication. Therefore, with the consent of the applicants, they are dealt with on documentary evidence alone. A total of 710 were heard in this manner during the fiscal year compared to 265 in 1987/88. This approach minimizes the need to inconvenience the applicant and/or solicitor and witnesses insofar as travelling to the location of Hearings, the attendant loss of work time and expenses involved.

Child Abuse

During this fiscal year the Board received 239 applications in respect of child abuse, heard 109 cases and awarded \$879,473.80.

Administration and Productivity

The administrative staff of the Board is composed of the Chief

Administrative Officer, Chief of Investigations, three Investigators, Manager of Compensation Claims, five Compensation Analysts and a clerical, secretarial, and stenographic staff of fifteen. In this fiscal year, the Board heard 1532 applications and 1497 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year. The total value of awards increased from \$5,954,958.00 in 1987/88 to \$7,141,766.92 in 1988/89. Of this amount \$1,269,476.00 was in the form of periodic payments. The number of applications received increased from 2247 in 1987/88 to 2458 in this fiscal year. Due to heightened public interest in the welfare of injured victims of crime, it is anticipated that the application rate will continue to escalate.

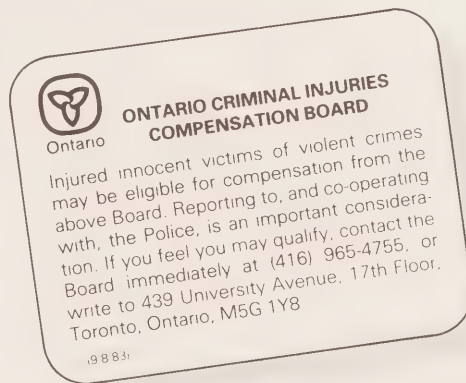
Public Awareness

Large posters and explanatory pamphlets are supplied to hospital emergency wards and staff lounges, Court Houses, victim-witness assistance co-ordinators, and other public buildings, etc. Police forces throughout the province have been supplied with hundreds of thousands of wallet-sized cards (as shown) to be given to victims of crimes of violence advising them how to apply to the Board. The daily Hearing agenda and a selection of typical Board Orders are provided to the news media, and others upon request.

Cost Sharing

Awards made under the Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts

to the lesser of 50% of the awards (net of any recoveries), or 25 cents per capita of the population of the Province. For the fiscal year 1988/89 this share amounted to \$2,357,700.00. The Federal Government does not share administrative costs.



CRIMINAL INJURIES COMPENSATION BOARD

Types of Crime as Listed
on Applications
April 1, 1988 to
March 31, 1989

1) Common Assault	35.9%
2) Assault Bodily Harm	21.4%
3) Aggravated Assault	2.9%
4) Assault with Weapon	2.2%
5) Sexual Assault	16.4%
6) Assault Police	3.1%
7) Resist Arrest	2.6%
8) Attempted Murder	3.7%
9) Murder	3.4%
10) Robbery	5.3%
11) Criminal Negligence	1.1%
12) All Others	2.0%



NOTE:

"Child Abuse". The above statistics listed under the terminology of the Criminal Code (Canada) include 239 cases commonly referred to as "Child Abuse". Family violence cases, especially wife battering, are encompassed within the various categories of assault.

Comparative Summary of Applications and Disposition by Fiscal Years

April 1, 1988
to March 31, 1989

EXAMPLES OF DECISIONS THE BOARD ORDER - AN EXPLANATORY NOTE

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action. Under the Compensation for Victims of Crime Act which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category. Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant. Section 22 of the Act provides for an order for costs, usually those entailed in making or providing support to, an application. Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently (a) new evidence has become available, or (b) change of circumstances has occurred, or (c) the Board considers any other matter relevant, on the application of any of the parties to the proceedings; the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this provision. Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors. As

well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media, students and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a Hearing is held in camera or publication is restricted.

Comparative Summary Fiscal Years Applications and Disposition

	April 1, 1985 to March 31, 1986	April 1, 1986 to March 31, 1987	April 1, 1987 to March 31, 1988	April 1, 1988 to March 31, 1989
Eligible Applications Received	1799	2000	2247	2458
Applications Heard (1)	1233	1141	1176	1532
Applications Heard on Documentary Evidence	81	44	265	710
Applications Heard but Denied	48	51	86	69
Review of Awards	3	6	11	10
Decisions Completed and Awards Ordered (2)	1220	1376	1315	1497
Files Closed	455	489	323	516
Interim Awards	7	7	7	18
Supplementary Awards	81	268	157	128
Periodic Awards	15	21	19	14
Lump Sum Payments	\$3,382,775.91	\$3,539,159.10	\$4,734,953.00	\$5,872,290.92
Periodic Payments	\$ 617,499.36	\$ 770,926.26	\$1,220,003.00	\$1,269,476.00
TOTAL OF AWARDS ORDERED	\$4,000,275.27	\$4,310,085.36	\$5,954,956.00	\$7,141,766.92
Average Award (3)	\$ 2,772.76	\$ 2,451.54	\$ 3,652.84	\$ 3,959.73

NOTE:

(1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include files closed.

(2) Includes Interim, Supplementary and Periodic Awards

(3) Periodic Payments not included when arriving at Average Award

Consolidated Summary of Awards

April 1, 1988 to March 31, 1989

Months	No. of Awards	Medical Expenses	Loss of Earnings	Pecuniary Loss to Relatives of Deceased Victim	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Legal Fees	Total Lump Sum Awards	Total Monthly Awards
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
April	17	401.75	885.00	0	21,200.00	0	1,748.52	850.00	25,085.27	102,921.00
May	180	23,194.83	31,683.73	13,110.00	476,559.90	9,739.00	22,774.64	20,249.00	597,311.10	102,911.00
June	82	7,145.52	29,794.60	7,832.30	287,900.00	2,394.62	7,262.36	8,950.00	351,279.40	104,911.00
July	116	13,768.41	53,795.34	0	355,150.00	8,100.00	17,439.89	12,150.00	460,403.64	102,553.00
August	122	8,036.32	56,438.53	0	356,750.00	2,700.00	20,618.88	13,850.00	458,393.73	102,381.00
September	143	33,674.50	56,326.59	0	537,800.00	0	27,202.08	15,200.00	670,203.17	102,643.00
October	135	5,942.17	48,472.76	0	424,150.00	731.00	16,616.35	11,356.50	507,268.78	105,181.00
November	122	3,844.09	42,240.05	21,064.00	310,225.00	5,400.00	13,366.87	11,125.00	407,265.01	107,295.00
December	135	17,185.11	70,255.19	24,820.00	318,900.00	10,082.00	37,012.81	13,684.00	491,939.11	108,465.00
January	133	22,415.05	68,210.75	43,929.84	355,528.00	6,585.50	25,755.00	15,429.10	537,853.24	109,605.00
February	156	8,910.15	43,581.51	0	509,750.00	2,700.00	34,399.47	13,550.00	612,891.13	112,305.00
March	156	19,656.23	82,154.83	0	572,400.00	2,700.00	52,622.28	22,864.00	752,397.34	108,305.00
TOTAL	1,497	164,174.13	583,838.88	110,756.14	4,526,312.90	51,132.12	276,819.15	159,257.60	5,872,290.92	1,269,476.00
		2.80%	9.94%	1.89%	77.08%	.87%	4.71%	2.71%		

COMBINED TOTALS OF LUMP SUM AND MONTHLY AWARDS

7,141,766.92

Assault

□ FILE: 922-020191

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 34 year old clerk was assaulted by her husband of July 17, 1987 when the alleged offender returned home in an intoxicated state. He was verbally abusive, then assaulted her and punched her numerous times, knocked her to the ground, kicked her about the left lower chest and back and attempted to strangle her. The applicant was subsequently taken to hospital by ambulance, where she was found to be suffering from tenderness and contusions in the abdominal area, tenderness about the right lumbar muscles and contusions on her arms and legs. She was prescribed analgesics and after being advised to rest and apply ice was discharged. She saw her family doctor 3 days later complaining of pleuritic left-side pain, right lower back and hip pain, difficulty sleeping and headaches. This medical examination diagnosed contusions to the left chest, left lumbar and left hip areas, post-traumatic anxiety, insomnia and tension headaches. Analgesics and mild tranquilizers were prescribed on an 'as needed' basis. He also suggested that she rest until the contusions were healed. A further examination on December 14 revealed that the applicant was still quite anxious and led the doctor to conclude that apart from the mental stress and anxiety resulting from the incident the applicant would not suffer long-term physical problems. He also noted that she had not been able to attend work due to her injuries. In her written statement to the Board the applicant noted that it had taken her 6 months to recover from her injuries.

Since she had not been able to do her physical exercises for 2 months she was still unable to perform all the exercises of which she had been previously capable. She also drew attention to the stress, periodic headaches, anxiety, fear and sense of humiliation which resulted from the occurrence. The applicant submitted documentation in support of a claim for loss of income. Her employer indicated she had lost pay for 21.5 hours. After allowing for the standard deductions the Board calculated her loss as \$213.06. Police had indicated to the applicant that the alleged offender would be charged with assault level II. A bench warrant was issued for the alleged offender. The Board found that the application qualified under section 5(a) and awarded \$22.00 expenses 7(1)(a); \$213.06 pecuniary loss-victim 7(1)(b); \$2,500.00 pain and suffering 7(1)(d) a legal fee of \$250.00 and disbursements of \$303.07 for a total award of \$3,288.13.

□ FILE: 922-016682

The 25 year old male applicant, was entering a subway on September 9, 1986 when he came across a man slapping a woman he was holding against a wall. The applicant told him to let her go but the offender refused. When the applicant reached the landing where this assault was taking place the offender threw him down the next flight of stairs and punched him in the face until his friend chased the offender away. The applicant went to the police station and then on to the hospital. The applicant stayed in the hospital overnight. Both of his wrists had been fractured. They remained in casts for approximately six weeks. He had received a cut under his left eye, which was also swollen and bruised, an abrasion on

his forehead and a sore tailbone. These injuries resolved themselves within two to three weeks. An ophthalmologist treated an abrasion to the left cornea which was considered healed by October 23, 1986. Two of the applicant's teeth, one real the other false, were broken in the assault. A partial plate lasted for about 8 months. The loss of the 2 front teeth caused the applicant considerable embarrassment. He and his girlfriend had to move back in with his parents during the time he was helpless with his 2 wrists in casts. The Board advised the applicant that it would pay under Section 25 of the Act for a fixed bridge according to a dentist's estimate on receipt of a report from the dentist that the work had been completed. By a subsequent Variation to this Order payment for this dental work was authorized. The applicant returned to work on December 12, 1986. The Board calculated his net loss of income after unemployment benefits at \$1,600.00. The offender was convicted of assault bodily harm and sentenced to 10 days in jail. The Board found that the application qualified under Section 5(a) and awarded \$387.50 expenses 7(1)(a); \$1,600.00 pecuniary loss-victim 7(1)(b); \$5,000.00 pain and suffering 7(1)(d); \$50.00 other pecuniary loss 7(1)(f) and in the subsequent Variation \$2,798.00 dental expenses 7(1)(f) for a total award of \$9,835.50.

□ FILE: 922-015916

With the applicant's consent this application was considered solely on the basis of the documentation filed. The 23 year old male applicant was working full-time with a food manufacturing and import company and part time with a grocery store. One evening at the

grocery store, he was called to the assistance of the store's bookkeeper who was having difficulty with an angry customer dissatisfied with the resolution of his request to return for refund some goods for which he could not provide a receipt. When the applicant asked the offender to leave, he pushed the applicant who reciprocated. The offender then kicked the applicant who injured his right ankle when he reciprocated. The applicant was treated in the hospital emergency room for his sprained right ankle. A tensor bandage was applied to the ankle, then crutches issued and rest and analgesics prescribed to the applicant. Six days after the injury, the doctor could observe swelling over the ankle and noted that it could withstand only feather weight bearing. Five days later, the applicant no longer required crutches. Though the doctor noted that the following month the applicant continued to experience right ankle pain, he was unaware of any continuing ankle complaints or problems though he saw the applicant on numerous subsequent occasions. The applicant indicated that the ankle took about two weeks to recover, but that he still experienced pain walking, running, dancing and standing. He also noted that he was no longer able to play sports as before and experienced ankle pain during weather changes. Though the applicant's wages were covered by the Workers' Compensation Board for his part-time employment, the Board awarded him \$566.95 with respect to this net wage loss in his permanent job. The offender was convicted of assault and fined \$100.00 or 30 days. The Board found that the application qualified under Section 5(a) and awarded \$42.21 expenses 7(1)(a);

\$566.95 pecuniary loss victim 7(1)(b) and \$800.00 pain and suffering 7(1)(d) for a total award of \$1,409.16.

□ FILE: 922-018831

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The application was brought forward by the mother of the victim, a boy who was assaulted by a young offender while on his way home after delivering his newspapers. The applicant took her son to the hospital where his central incisor tooth was reimplanted and an arch-bar applied. This stabilization was removed six weeks later. The young offender was sentenced to 12 months probation. The Board found that the application qualified under Section 5(a) and awarded \$28.00 for a day's lost income 7(1)(b) and \$500.00 for pain and suffering 7(1)(d) for a total award of \$528.00.

□ FILE: 922-019301

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 34-year-old security officer, was working in a shopping mall when he was assaulted. He had approached the offender and requested that he leave the mall. When he refused to do so, he was advised to accompany the applicant to the security office. As they neared the office, the offender flew into a rage and elbowed the applicant in the mouth. As a result of the assault, the applicant sustained two fractured teeth. These were extracted and an acrylic partial upper denture was inserted. The applicant was physically recovered a month after the assault but now encounters some trouble when having to bite into hard food. Nine months after the assault, he still

experienced emotional distress as a result of the assault. The offender was not apprehended. The Board found that the application qualified under Section 5(a) of the Act and awarded of \$1,000.00 pain and suffering 7(1)(d).

□ FILE: 922-020243

The applicant, a 47-year-old security guard, had finished work and was driving out of the company parking lot at approximately 1:00 a.m. when he got out of his car to clean off his headlights. Once outside, he was attacked and beaten by a group of four or five men to the point of unconsciousness. When he regained consciousness he was laying on the road in front of his car. He sustained swelling and bruising to his forehead and cheeks, a large hematoma on the back of his head, two fractured ribs and a fractured cheekbone. The assault also aggravated a previous back injury for which he had to receive therapy. As a result of his injuries, he was unable to work for a period of several months. The offenders were not apprehended. The Board found that the application qualified under Section 5(a) of the Act and awarded compensation of \$360.00 expenses 7(1)(a); \$5,000.00 pecuniary loss-victim 7(1)(b); \$3,000.00 pain and suffering 7(1)(d); and \$17.50 other pecuniary loss 7(1)(f), for a total award of \$8,377.50.

□ FILE: 922-019894

With the consent of the applicant's mother, this application was considered solely on the basis of the documentation filed. This application was originally brought before the Board by the mother of the victim but having attained the age of majority, the victim himself became the applicant of record. The applicant, 16 years old at the time of the occurrence, had been

skateboarding in a parking lot with some friends at approximately 10:30 p.m. when another group of youths approached them and threw a beer bottle. The applicant and his friends decided to leave and were getting into a truck when the applicant was confronted by the young offender who kicked him in his face, knocking out his contact lens and causing soft tissue injury to his eye. The applicant and his friends then left and he was taken to the hospital. The young offender was convicted, given a suspended sentence and placed on probation for one year. The Board found that the application qualified under Section 5(a) of the Act and awarded \$79.50 contact lens cost 7(1)(a); and \$1,200.00 pain and suffering 7(1)(d), for a total award of \$1,279.50.

□ FILE: 922-018818

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 41-year-old psychiatric nursing assistant, was attacked by a patient while on duty at a mental health centre. She had observed the patient move toward another nurse in a threatening manner and, believing that the nurse was in danger of serious harm, attempted to physically restrain the patient. At this point, she herself was attacked by the patient. She went to hospital for treatment where she presented with a human bite to the thumb, scratches and scrapes to the right side of her face and neck, a swollen scalp, swelling on the right side of her arm and a stiff arm and neck. She was seen the following day by a physician who confirmed a tender, bruised and swollen right jaw, a tender right sternocleido-mastoid muscle (which rotates and depresses the

head) and tender right neck region with lateral movement limited to 20 degrees. Scalp tenderness and the thumb bite were also confirmed. In a report written approximately three weeks after the assault, her physician stated that the applicant was 95% recovered with an excellent prognosis. The applicant was off work for two weeks and her lost wages and all expenses incurred were covered by the Workers' Compensation Board. The applicant laid a private charge against the offender but made no report to the police about the occurrence. The offender was given a suspended sentence and was placed on probation for 2 years. The Board found that the application qualified under Section 5(a) of the Act and awarded \$900.00 pain and suffering 7(1)(d).

□ FILE: 922-018769

The applicant, a 33-year-old salesperson, was assaulted while parked at a shopping plaza. He had gone to the plaza with a friend and remained in the friend's truck while the latter went into a store. Meanwhile, for some unknown reason, a male objected to where the truck was parked and demanded that the applicant move it. When the applicant stated that it was not his truck and that he did not have the keys, an argument between the two ensued. Racial insults were exchanged and the applicant was eventually punched in the face, knocked to the ground and kicked. As a result of this assault, the applicant sustained a significant head injury with two fractures to his skull, was hospitalized for eleven days and was unable to work for eleven weeks. Psychological assessments of the applicant indicated some difficulty with abstract thinking but it was not possible to determine whether this was related

to the chronic effects of his alcohol abuse or the injury. The applicant told the Board that he had consumed approximately six drinks of rye and coke in the four or five hours prior to this occurrence. He also admitted that he had engaged in trading racial insults but he did not believe that he had given any indication that he wanted a fight with the offender, who was alleged to have weighed approximately 300 pounds and been more than six feet tall. However, the applicant's friend, the owner of the truck, told police the applicant gave every indication of wanting a fight. After considering the evidence, the Board concluded that the behaviour of the applicant directly contributed to his assault and, therefore, applied the provisions of Section 17(1) and declined to make an award for pain and suffering. However, while the applicant had contributed to his assault, the results of that assault were rather extreme. The Board also felt that the applicant's alcohol abuse was a major factor in the incident and accepted that he had made a significant effort since the assault to control this problem. Furthermore the applicant did not appear to have a record of provocative behaviour or violence. The Board, therefore, made an award of \$3,000.00 loss of income 7(1)(b); and \$175.00 medical reports 7(1)(f), for a total award of \$3,175.00.

□ FILE: 922-017515

The applicant, a 41-year-old woman, was at a private party at approximately 2:00 a.m. when she was assaulted by a male offender. She was punched in the face and sustained injuries to her mouth and the right side of her face. Upon examination, the applicant presented with swollen lips and two broken upper front teeth. She

suffered from right eye vision blurriness, severe headaches and facial pain. The applicant's dentist submitted to the Board a proposed treatment plan for future dental work for the applicant in the amount of \$1,700.00 which may include root canal therapy for an additional \$600.00. The Board authorized this dental treatment plan and will reimburse the dentist in the amount of no more than \$2,300.00 upon completion of the said treatment plan, submission of appropriate invoices, and confirmation from the applicant that she is satisfied with the work performed, under the provisions of Section 25 of the Act. The applicant lost two weeks of work as a result of the injuries sustained in the assault. The offender was not charged as the applicant was unable to make a positive identification. The Board found that the application qualified under Section 5(a) of the Act and awarded \$348.00 net loss of income 7(1)(b); \$1,500.00 pain and suffering 7(1)(d); \$32.50 net loss of income to attend the Hearing; \$350.00 solicitor's fee and \$545.00 disbursements, for a total award of \$2,775.50.

□ FILE: 922-016732

The applicant, a 23-year-old truck driver, had heard some commotion in his neighbourhood one night at approximately 10:30 p.m. Shortly afterwards, a male armed with a knife suddenly attacked him, stabbing him in the abdomen and upper chest. The applicant was transported to hospital where he was admitted with a diagnosis of stab wounds to the abdomen, a laceration of the liver and multiple lacerations to the small bowel and small bowel mesentery. He underwent a laparotomy, oversewing of the intercostal artery (between the

ribs), exploration of the laceration of the liver and retroperitoneum, closure of the small bowel lacerations and oversewing of the small bowel mesentery lacerations. He recovered well until developing a left deep vein thrombosis. He was discharged from hospital 20 days after the assault but was readmitted several months later for repair of an incisional hernia. The applicant told the Board that he continues to have discomfort at the site of the surgical incisions. The offender was convicted of attempted murder and sentenced to 14 years in prison plus 14 years concurrent. The Board found that the application qualified under Section 5(a) of the Act and awarded \$1,575.00 loss of income (pecuniary loss - victim) 7(1)(b); \$5,000.00 pain and suffering 7(1)(d); \$400.00 solicitor's fee and \$140.00 disbursements, for a total award of \$7,115.00.

□ FILE: 922-016420

With the applicant's consent, expressed through his solicitor, this application was considered solely on the basis of the documentation filed. The 18 year old applicant was drinking beer with some friends in a park on July 16, 1986. While he was talking with a former girlfriend they were both assaulted by her current boyfriend. The offender bit off the tip of the applicant's nose as well as punching and kicking him. The tip of the applicant's nose was reimplanted during a five day stay in hospital. As had been feared this graft did not take and it was found necessary to graft skin taken from behind his right ear on August 13, 1986. There was a further cartilage graft on June 17, 1987 to remedy the significant cosmetic deficit. Though the deficit was improved it is still apparent and causes the applicant embarrassment. The nose

remains more sensitive to pain. The offender was sentenced to 30 months imprisonment consecutive to time already being served for his aggravated assault on the applicant. The Board found that the application qualified under Section 5(a) and awarded \$39.68 expenses 7(1)(a); \$2,400.00 pecuniary loss-victim 7(1)(b); \$5,000.00 pain and suffering 7(1)(d); a \$250.00 legal fee and \$486.00 disbursements for a total award of \$8,175.68.

□ FILE: 922-018357

The applicant, a 27 year old postal worker, testified at the Hearing that when he arrived at work shortly before midnight on May 15, 1987 he was approached by the alleged offender who slammed him into a locker, struck his face and kicked his left hand. He defended himself against this alleged assailant who finally left the premises. The applicant received first aid at the postal station and then in hospital for abrasions to his swollen left knuckles and thumb. X-Rays revealed a fracture of the base of the first metacarpal of his left hand which was treated with a thumb spica cast. When the cast was removed on June 15 there was no clinical malalignment and the displacement was only 2 or 3 mm. The applicant informed the Board that his thumb was sore for several months afterward and that it still lacks its normal strength when he attempts to lift heavy objects. The applicant did not immediately report the incident to the police. After more mature consideration, on the advice of the investigating officer, he swore to an information charging the alleged offender with assault bodily harm. A key witness, to whom the alleged offender had admitted the assault, was not subpoenaed and the charge was dismissed. The applicant

then entered into a peace bond rather than go through another trial. The Board found that the application qualified under section 5(a) and awarded \$800.00 pain and suffering 7(1)(d).

□ FILE: 922-017052

The applicant, a 35-year-old correctional officer, was on duty patrolling outside the prison exercise area when an inmate became angry and began to shout at him using profanities. The applicant placed the inmate on a misconduct charge and in attempting to escort him from the exercise grounds was assaulted by the inmate. The applicant attended at a hospital that afternoon where he was found to be suffering from a blood blister on his lower lip, pain in his left wrist and hand and in his right ankle. X-rays showed no fractures, dislocations or any bony abnormalities. He was diagnosed as having multiple bruises, had a splint applied to his left wrist and was given Tylenol #3 for the pain. Almost two years after the incident, the applicant's left hand and wrist injuries had not properly healed and in the view of the applicant's personal physician, will remain a permanent injury. These injuries left the applicant with a decreased range of motion in his wrist joint and decreased power of grip. He experienced intermittent pain and was forced to become right-handed. As the applicant was injured while on duty the Workers' Compensation Board covered his lost wages. However the applicant had a second job involving short-term contract work and his losses incurred in this position were not covered by the Workers' Compensation Board. These losses were taken into consideration by the Board. Charges of assault bodily harm laid against the

offender were dismissed in court. The Board found that the application qualified under Section 5(a) of the Act and awarded \$1,905.00 pecuniary loss-victim 7(1)(b); \$5,000.00 pain and suffering 7(1)(d); \$44.50 applicant's travel expenses to attend Hearing 7(1)(f); \$69.50 witness' travel expenses and fee 7(1)(f), for a total award of \$7,019.00.

□ FILE: 922-014867

The applicant, having been informed of the Hearing, failed to attend and the Board, under the authority of the Statutory Powers Procedure Act, with the consent of the applicant's counsel who was present, proceeded to hear and consider the application on the basis of the documentary evidence submitted and with the assistance of and submissions from the applicant's counsel. The applicant, an unemployed 51-year-old man, was in bed when he was attacked by two housemates at approximately 3:00 a.m. His assailants struck him repeatedly with a metal bar and a crutch when he refused to sign them into a nightclub where he held a membership. As a result of this assault, the applicant was hospitalized for 12 days, 5 days of which were in the Intensive Care Unit. He had sustained multiple lacerations and bruises to his scalp, a hairline fracture of the left shoulder and a number of fractures to his right hand, including fractures to two fingers. All physical injuries had healed within 3 months however the applicant was left with a deformed, weakened and arthritic right hand with constant pain and permanent stiffness. No improvement in the hand is expected and the arthritis is expected to worsen. The applicant also suffers with ringing in his ears and has a

scar on his forehead. He continues to suffer severe nervous anxiety for which tranquilizers are taken. The two offenders were convicted of assault with a weapon and sentenced to two years less one day. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$4,000.00 pain and suffering 7(1)(d) to be paid in two equal installments; \$300.00 solicitor's fee and \$183.25 disbursements, for a total award of \$4,483.25.

□ FILE: 922-018545

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 44-year-old male, was at work when a disagreement with his employer led to a physical assault. The applicant's employer had approached the applicant and pushed him, causing the applicant to fall onto his back. The applicant was then fired from his job. The applicant saw his doctor the next day and x-rays taken revealed some degenerative disc disease of the cervical and dorsal spine. His injuries were diagnosed as cervical, thoracic and lumbosacral strains, a concussion, contusions of the posterior chest wall, right shoulder and left scapula, and post-traumatic anxiety. The applicant attempted to return to work but found the pain to be unbearable. He saw a specialist and complained of needles and pins in the left hand, insomnia and stiffness in his lower back. A later medical report indicated that his disability lasted approximately ten months. The offender was charged with assault however, the charge was withdrawn and a peace bond was entered for 12 months. A fine of \$500.00 was also given. The Board found that the application qualified under Section

5(a) of the Act and awarded \$1,540.65 loss of income 7(1)(b); and \$4,000.00 pain and suffering 7(1)(d), for a total award of \$5,540.65. The Board also drew the applicant's attention to Section 17(3) of the Act in the event of any civil proceedings undertaken.

□ FILE: 922-018035

With the applicant's consent, this application was considered solely on the basis of the documentation filed. On August 9, 1986 the 35 year old male applicant was asleep in the bedroom of a friend's home when the offender, an old friend of the applicant's friend, entered the room, began to hit him about the face then stole his watch and some money. When the applicant went into the washroom to clean the blood from his face the offender slammed his face in the mirror and ripped a gold necklace from his neck. While the applicant was being treated in hospital the offender arrived, pushed the doctor out of the way and punched the applicant about the face. He had stated in his application to the Board that he had suffered a broken nose, a fractured jaw and stitches to his lip and left eye but the hospital records made no mention of an injury to his jaw. X-rays revealed no facial or nasal fractures. The minor laceration to his left cheek was stitched. The doctor who saw the applicant a month and a half after the assault reported that the applicant had suffered a nasal deformity and a breathing problem due to a septal deviation. This problem was corrected by a rhinoplasty on November 5, 1986 and a slight revision on March 7, 1987. The applicant was absent from work in August, October and November, 1986 for a total of 18 days. He was fully paid out of his sick bank. The Board

informed him that should he need these sick days he can apply to the Board under Section 25 of the Act. The offender was sentenced to 6 months on a robbery charge. The Board found that the application qualified under Section 5(a) and awarded \$2,000.00 pain and suffering 7(1)(d).

Assault Bodily Harm

□ FILE: 922-017518

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant was a 23-year-old university student who had gone into a bar at approximately 10:00 p.m. for a beer. On returning to his seat after hanging up his coat, he was accosted by another patron who insisted the applicant apologize to him. When the applicant asked why he should do so, an argument between the two ensued which soon escalated into a physical confrontation. The offender struck the applicant repeatedly until the fight was broken up by two doormen. During the altercation, both the applicant and offender fell to the floor, the applicant striking his face on a table on the way down. At hospital the applicant was treated for a contusion under his left eye, a small laceration of the mouth and two loose front teeth. The laceration was sutured and he was later treated by a dentist who restored the two teeth with plastic and suggested a future restoration with crowns. The offender was convicted of assault bodily harm, given a suspended sentence and ordered to pay restitution of \$4,097.00. Only \$1,500.00 of this has been paid. The Board found that the application qualified under Section 5(a) of the Act and awarded \$2,000.00 pain and suffering 7 (1)(d). The Board reviewed the applicant's dental expenses to date and considered them to be adequately covered by the restitution he has received. The applicant's claim for future dental treatment likely required was denied however, should this treatment be required, he was advised to recontact the Board and provide a dental report outlining the work required, its connection to the

assault and an estimate of the cost, in order for the Board to consider this aspect of the claim under the provisions of Section 25 of the Act.

□ FILE: 922-016912

The applicant, a 25-year-old fitness testing salesperson, was strangled and beaten unconscious by a male who broke into her first-floor apartment. She regained consciousness and was able to escape by knocking her assailant off balance. The applicant was taken to hospital by ambulance where she was noted to have a scalp laceration, bumps on her forehead, swelling and hemorrhages of both eyes, bright red strangulation marks on her neck, diffuse ecchymosis over her face and petechiae on her throat (types of bruising), abrasions on her left lower jaw and cheek, long red marks over her left arm and a bruise above her right elbow. She complained of a headache and throat pain. The applicant stated that the bruises and abrasions healed in three to four weeks, and her eyes in three months. She still suffers from headaches and is troubled by sinus problems especially when sleeping. At the time of the assault the applicant was undergoing dental treatment but required additional work as a result of the injuries sustained. To date, the cost of this treatment has been \$720.00. The Board will consider payment of further dental treatment necessitated by the assault, expected to be approximately \$975.00, on receipt of a report from the applicant's dentist that such work has been completed and was directly attributed to her injuries. The applicant only recently acknowledged the extent of the psychological trauma she suffered and has been referred to a psychiatrist by her family doctor for counselling. She was obliged to

terminate her business and, based on the financial information before the Board, her net loss of income was calculated at approximately \$7,200.00. The offender was eventually apprehended after two further assaults on women. With respect to the applicant, he was convicted of choking, break and enter, and assault and sentenced to 7 years concurrent on each charge. The Board found that the application qualified under Section 5(a) of the Act and awarded \$742.00 expenses 7(1)(a); \$7,200.00 loss of income 7(1)(b); \$12,000.00 pain and suffering 7(1)(d); \$225.00 other pecuniary loss; \$400.00 solicitor's fee and \$75.00 disbursements, for a total award of \$20,642.00.

□ FILE: 922-016500

The applicant, a 30-year-old beer store employee, was at work when he heard what he thought was a car back-firing. He went to investigate the noise and was met at the doorway by a masked gunman. The gunman ordered him to back up and as he did so, he tripped over a skid. His stumble startled the gunman who discharged his gun and shot the applicant in the leg. The applicant ran for cover and waited until police were called. The applicant was taken to hospital where examination showed a bullet wound to the right thigh and an abrasion to the left thigh but no neurovascular injury, fractures or bullet fragments. When re-examined approximately one-and-a-half months later, both wounds had healed well. At the Hearing the applicant told the Board that he is self-conscious about his leg scars and that he feels his right leg is not as strong as it was prior to the shooting. He also suffers from periodic leg pain. In addition, he

stated that since the occurrence he has become wary of strangers, cautious and nervous. He dislikes working in the store at night after dark and feels that this jeopardizes his chances for advancements. He intends to seek psychological counselling to help him deal with these fears. The Board found that the application qualified under Section 5(a) of the Act and awarded \$3,000.00 pain and suffering 7(1)(d).

□ FILE: 922-020722

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 29-year-old trainman, was in a bar with a friend when he encountered the offender herein who happened to blow cigarette smoke in the applicant's face. The applicant objected to this and moved the ashtray behind himself. At this point, the offender punched the applicant in the face. At hospital the applicant was treated for a fractured cheekbone which had resulted in a flattening of his cheek prominence. He also experienced numbness of the left temple region, left cheek and left upper lip. At present, he continues to experience numbness and a tingling sensation on the left side of his face. As a result of his injuries, the applicant missed more than three weeks of work, incurring a net loss of income totalling \$1,583.13. His insurance covered the majority of this loss, leaving him with a net loss of income of \$393.84. The offender was convicted of assault bodily harm and sentenced to 30 days in jail. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$27.43 drugs 7(1)(a); \$393.84 pecuniary loss-victim 7(1)(b); and \$1,800.00 pain

and suffering 7(1)(d), for a total award of \$2,221.27.

□ FILE: 922-018593

The applicant, a 29-year-old male, became involved in an altercation, to which he was not an innocent party, at approximately 1:00 a.m. after an evening of drinking. The applicant had only a vague memory of the occurrence but the assault was witnessed by a police officer who was attempting to restore order on the scene. The applicant was hit in the face with a beer bottle by the first offender and was knocked unconscious with a vicious punch to the left side of the head by a second offender. He was subsequently taken to hospital by ambulance. The applicant remained unconscious for twenty-six minutes and required the insertion of an airway to assist with his breathing. Examination revealed a right basal skull fracture with right hemotympanum and decreased hearing in the right ear. He also had a scar on the right cheek which he refused to allow the medical staff to repair. At present, the applicant suffers from decreased hearing in the right ear, ringing in the right ear, memory loss and a loss of all sense of taste and smell. The offenders were charged with assault bodily harm. The offender who had wielded the beer bottle was convicted and received 20 days incarceration. The Board found that the application qualified under Section 5(a) of the Act however, it invoked Section 17(1) and ordered a reduced award of \$3,500.00 pain and suffering 7(1)(d).

□ FILE: 922-015427

Hearing held in camera. The applicant, a 41-year-old female, assisted her common-law husband in the operation of his businesses. She had been doing some book-

keeping for the businesses when the two of them became embroiled in an argument. The argument escalated into a physical altercation in which her husband hit her and struck her to the ground. At this point he stopped his assault and apologized. Later that day the offender again assaulted the applicant in an attack that included pulling her hair, punching and kicking. She was left lying semi-conscious at the end of the assault, unable to stand up. The offender later carried her to the bathroom and helped her wash her face. He again became apologetic and started crying. The applicant testified that although the offender had been abusive previously, this was by far the worst assault. The day following the assault, he would not allow her to seek medical attention and she was, therefore, obliged to spend the day at home in bed. The next day, the offender left the house at various points, initially taking the telephone with him, and the applicant was eventually able to escape and call an ambulance. Examination at the hospital revealed the applicant had sustained a blow-out fracture of the lower portion of the right orbit (the bony cavity of the skull that contains the eyeball), two fractured ribs and bruises about her arms and legs. She was also later diagnosed as having traumatic tendonitis of a thumb tendon which required a splint and anti-inflammatory medication. Low back pain present prior to the occurrence had been worsened. As a result of her eye injury, the applicant suffered from pain and blurred vision on upward gaze and when looking to the right. However, over time the pain and blurriness associated with eye movement diminished. She has also been diagnosed as suffering from post-traumatic

stress disorder and undergoes psychotherapy twice weekly. Her doctor reported that although the applicant works diligently at her therapy and has shown stamina and determination in her efforts to rebuild her life, she is likely to continue to suffer continued emotional consequences of the abuse to which she was subjected. Although she was not paid a regular salary for her work at the businesses, money generated by the businesses had been used to pay her share of household expenses. The Board accepted her calculation of \$2,000.00 as her net loss of income. The applicant also submitted a claim in the amount of \$300.00 for dental treatment required subsequent to the assault. Two teeth were extracted after being loosened during the assault and another tooth had been broken off her upper plate. She has incurred no dental expenses to date but anticipates the need for further treatment. The Board would consider these future expenses under the provisions of Section 25 of the Act upon receipt of a dental report which includes confirmation that the damage is a result of the assault, the recommended course of treatment and the associated expenses. The offender was charged with assault bodily harm and received a suspended sentence plus 2 years probation. The Board found that the application qualified under Section 5(a) of the Act and awarded \$315.00 expenses, covering the cost of a splint and travel to treatment 7(1)(a); \$2,000.00 pecuniary loss - victim 7(1)(b); and \$9,000.00 pain and suffering 7(1)(d), for a total award of \$11,315.00.

□ FILE: 922-018679

Hearing held in camera. With the applicant's consent, this application was considered solely on the basis of

the documentation filed. The application was brought forward by the adoptive mother of a five-week-old infant who was physically abused by her father and suffered from a severe shaking or blow to the head. The victim was taken to a pediatric intensive care unit and found to have right-sided intracranial hemorrhage with a subdural effusion. Upon discharge from the hospital, she was placed in the care of an experienced foster mother. The victim was seen by various pediatricians who commonly reported that she suffered from convulsions and twitching, motor movement problems, hyperlexia and developmental delay. The most recent medical evidence on file indicated that she was functioning neuro-developmentally at her chronological age but was still at risk for some slowly evolving spasticity in her lower extremities. The offender was convicted of assault bodily harm and sentenced to 4 months in prison. The Board found that the application qualified under Section 5(a) of the Act and awarded \$305.80 expenses 7(1)(a), and \$15,000.00 pain and suffering 7(1)(d) to be paid to The Accountant of the Supreme Court under Section 36(6) of The Trustee Act, to be held and invested until the victim attains the age of 18. The solicitor's fee of \$200.00 and physician's medical report fee of \$150.00 were also ordered paid, for a total award of \$15,655.80. The Board also took into consideration possible future physiotherapy costs and made reference to Section 25 of the Act.

Aggravated Assault

□ FILE: 922-016963

The applicant, a 62-year-old man, worked weekends as a taxi driver. He had picked up a fare, a well-dressed individual who gave no indication of criminal intent, and had driven him to his requested destination when the passenger pulled out a knife and stabbed the applicant in a robbery attempt. The applicant was able to wrestle the knife away from the offender and then called for help from his dispatcher after the offender fled. He was assisted by a passerby who called the police. The applicant was taken to hospital where he was treated for multiple stab wounds to his chest and wrist. He had almost no blood pressure reading, his neck veins were distended and he was unresponsive. He was rushed to the operating room for emergency surgery which involved a median sternotomy with repair of a right ventricular laceration. During the operation he suffered severe arrhythmia and acidosis which were successfully corrected. In the days following surgery, the applicant did very well and his wounds healed uneventfully. He was discharged from hospital three weeks after the assault. Two weeks after his discharge he saw his physician, complaining of intermittent chest pain and swollen ankles. Examination showed his chest to be clear however his legs were swollen. Two weeks later he saw his doctor again, complaining of not feeling well and having a stiff feeling in his chest. His doctor reported no negative findings other than a slight tachycardia at 100 beats per minute. During a visit almost four months after the assault, the applicant's physician found him to be much improved. He told the applicant that he was

well enough to participate in almost any activity and reassured him that there was no residual heart damage. At the Hearing the applicant told the Board he could not yet return to work at that date due to continuing physical and emotional distress. He stated that he still suffers from fear and is now more careful of the fares he accepts. The Board accepted his claim for a loss of income over a 25-week period. The offender was not apprehended. The Board found that the application qualified under Section 5(a) of the Act and awarded \$2,360.00 pecuniary loss-victim 7(1)(b); \$4,000.00 pain and suffering 7(1)(d); \$134.50 other pecuniary loss 7(1)(f); \$450.00 solicitor's fee and \$107.00 disbursements, for a total award of \$7,051.50.

□ FILE: 922-019881

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 17-year-old at the time of the occurrence, was leaving a dance with his girlfriend at approximately 11:15 p.m. in November when he was confronted by two other young males. One of the two grabbed the applicant's hat and threw it to the ground. As the applicant bent down to pick it up, the second youth punched him in the jaw. At hospital that night it was determined that the applicant had sustained a fractured mandible on the left side. He underwent an open reduction to repair the fracture with wires and arch bars. He also had his mouth wired shut. These wires and bars remained in place for one-and-a-half months. The young offender was charged with aggravated assault and sentenced to 30 days in closed custody plus two years probation. The Board found that the application qualified under

Section 5(a) of the Act and awarded \$2,500.00 pain and suffering 7(1)(d); \$150.00 solicitor's fee and \$393.15 disbursements, for a total award of \$3,043.15.

□ FILE: 922-015980

The applicant, a 39-year-old male, was stabbed in the upper left forearm while at a tavern. As a result, he sustained a deep stab wound with severe bleeding. He was examined under general anesthetic and found to have suffered extensive lacerations of the tendons and muscles required for extension of the fingers and wrist. There was also damage to the sensory nerves that supply feeling down the back of the forearm and wrist. These wounds were repaired however, since his discharge from hospital, recovery has been slow and incomplete. Because he is left-handed, the applicant finds that the injuries he sustained have been a significant hindrance to him in his daily activities. While lifting a cabinet at work, he broke his leg as a result of being unable to support the cabinet's weight with his left hand. He also continues to suffer from nightmares, anxiety, depression and fear of his attacker, as a result of the assault. The Board advised him of the provisions of Section 25 of the Act should he require counselling or therapy in the future. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$47.00 drugs and ambulance services 7(1)(a); \$7,500.00 pain and suffering 7(1)(d); \$400.00 solicitor's fee and \$300.00 disbursements, for a total award of \$8,247.00.

□ FILE: 922-018107

Hearing held in camera. With the consent of the applicant's solicitor,

this application was considered solely on the basis of the documentation filed. The application was brought forward by the mother of a boy who, at age four, was physically, and possibly sexually, assaulted by his male babysitter. A medical examination performed after the boy's parents became aware of the assault revealed that the boy had sustained second degree burns to his chest, multiple bruising to his wrists, back and legs, and abrasions to his genital area. Ten months of "play therapy" appear to have succeeded as evidenced by the boy's happy, relaxed behaviour. He seems to have appropriate emotional responses in relation to the assault. The applicant's solicitor advised the Board that a judgement of \$5,000.00 plus 10% interest per annum was obtained against the offender. At the time of the Hearing, nothing had been collected and it appeared unlikely that anything would be. The applicant was reminded of the Board's subrogated rights should any collection be made. The offender was convicted of aggravated assault and sentenced to 2 years less a day plus 3 years probation. The Board found that the application qualified under Section 5(a) of the Act and awarded \$5,000.00 pain and suffering to be paid to The Accountant of the Supreme Court of Ontario under Section 36(6) of The Trustee Act, to be held and invested for the victim until he attains the age of 18. Also awarded was \$40.00 cost to the applicant to obtain medical report 7 (1)(f); \$300.00 solicitor's fee and \$50.00 disbursements, for a total award of \$5,390.00.

Assault with a weapon

□ FILE: 922-018127

The applicant, a 22-year-old physically handicapped woman, was at a friend's home attending a party when one of the guests became verbally and physically abusive to several people in attendance. As a result, he was asked to leave. When a beer bottle was thrown in his direction, he incorrectly assumed that it had been thrown by the applicant. He then lunged at the applicant, who was holding two small children on her lap at the time, and proceeded to strike her about the face and head with a beer bottle. As she attempted to shield herself from the blows, her left hand received a serious laceration. The offender finally fled whereupon the applicant was taken to hospital. At hospital, the applicant was found to have sustained lacerations to her head, neck and forehead. The laceration to her left hand involved her index finger and resulted in the severance of the extensor tendon and the partial severance of another tendon. Her lacerations were sutured and a splint, which she wore for a period of one month, was applied to her finger. A medical report submitted to the Board stated that the applicant would not suffer any permanent adverse effects as a result of her injuries however, at the Hearing she advised the Board that she has permanent numbness in the index finger and cannot straighten it. As a result, her grip strength is weakened which made it impossible for her to use her wheelchair for three months after the assault, or her walker for six months afterwards. She also suffers from recurring headaches and pain at the base of her neck. She also suffered emotionally but of greater

concern to her has been the emotional impact upon her young son who was a witness to the assault. At the time of the Hearing, a warrant for the arrest of the offender was currently outstanding. The Board found that the application qualified under Section 5(a) of the Act and awarded \$4,000.00 pain and suffering 7(1)(d); \$59.50 other pecuniary loss 7(1)(f); \$500.00 solicitor's fee and \$151.50 disbursements, for a total award of \$4,711.00.

□ FILE: 922-018007

With the applicant's consent, this application was considered solely on the basis of the documentation filed. Between 2:00 and 3:00 a.m. on November 29, 1986 the male offender forcibly entered the home of the 70 year old female applicant. When he found her sleeping in the main floor bed/sitting room he proceeded to stab her 31 times. Her husband (File 922-018008), who came to her aid after hearing her screams, was also assaulted but chased the offender who fled the scene. He then called both the police and an ambulance. The applicant was discovered upon arrival in hospital to be in hypovolemic shock from the loss of blood. She was taken to surgery after preliminary treatment. Though some of the lacerations were described as somewhat superficial 31 stab wounds were identified including one to the right eye and some deep wounds to the chest, scalp and right upper arm. The lacerations were cleaned and sutured and emergency surgery performed on the eye. Upon her return to intensive care a severe air leak was discovered in the applicant's left chest. She underwent a thoractomy on December 1 which revealed two penetrating wounds

one into the lung and another into the lung and entering the pericardium. Blood was discovered in the pericardium. A small laceration of the heart was sutured and the lung damage was repaired at the same time. The applicant had to return to the operating room in order to stop post-operative bleeding. She was discharged on December 28, 1986 after a lengthy stay in intensive care followed by a stay on the surgical floor. The applicant's loss of her right eye as a consequence of the assault has presented particular difficulties since she had, previous to the occurrence, suffered a reduction in the vision in her left eye due to a mild degeneration. She has also been reported to suffer from "recurrent atrial flutter and fibrillation" since her stay in intensive care. Though these have been relatively well controlled through medication the doctor notes they may well be the consequence of the atrial scars resulting from the stabbing. They have required her return to hospital as well as being a source of distress to her. In spite of her remarkable recovery the applicant continues to suffer from a number of continuing symptoms including substantial discomfort, darting pains and impaired breathing. She also complains of numbness down the right side of her nose, face and lips and on the roof of her mouth resulting in a loss of the sense of taste. This has also led to difficulties in both eating and drinking. Her right shoulder continues to be dysfunctional and painful. She is unable to lift her elbow above her hip and is therefore unable to carry out her normal bathing and dressing routines or household chores. Her doctor has recommended a course of physiotherapy.

The occurrence has also caused the applicant significant emotional trauma. She has suffered from interrupted sleep, insomnia, anxiety and reactive depression since the time of the assault. She also reports that her daily activities are much more difficult and less enjoyable as a result of the loss of the sight in her right good eye and the deteriorating vision in the left. She is very fearful of being left alone and feels that she has lost her sense of security and self confidence. Having regard to the nature and gravity of the injuries and their consequences the Board awarded the applicant the maximum amount it is empowered to award for pain and suffering under the Act. However having granted this maximum award, though it was clearly warranted, the Board decided to make no further award for the documented claims for numerous expenses incurred as a result of the injuries save for the cost of two medical reports. The offender pleaded guilty to charges of breaking, entering and attempted murder and was sentenced to 15 years. The Board found that the application qualified under Section 5(a) and awarded \$25,000.00 pain and suffering 7(1)(d) and \$100.00 other pecuniary loss 7(1)(f) for a total award of \$25,100.00.

□ FILE: 922-019629

The applicant having been informed of the Hearing and having failed to appear, the Board heard the application under the authority of the Statutory Powers Procedure Act on the basis of the documentary evidence filed. The applicant, a 23-year-old male, was leaving a drugstore after purchasing a drink when he felt a sharp blow to the area of his left eye which caused

him to fall to the ground. He was able to drive home and ask his roommates to take him to the hospital and to call police. At the hospital the projectile part of a .22 calibre bullet was removed from the top of his left eye socket. He underwent surgery to repair lacerated portions of his eye and to remove multiple foreign bodies. He also had a vitreous hemorrhage in his left eye. After surgery the applicant's uncorrected distance acuity was "count fingers at one foot" in the left eye. Over the following months however his vision in this eye decreased to the "hand movements level" and he developed a high pressure in the eye. Additional surgery almost a month after the incident involved a left vitrectomy and scleral buckle. At the time of surgery, extensive scarring in the nasal retina and moderate scarring of the central macular area were noted. Post-surgery, the applicant's distance vision in the left eye was 20/400 with a +12.00 lens. It is expected that the applicant's vision will remain at this level, leaving him legally blind in the left eye. The offender was not apprehended. The Board found that the application qualified under Section 5(a) of the Act and awarded \$8,000.00 pain and suffering 7(1)(d).

□ FILE: 922-017704

The applicant, a 45-year-old welder, was at work when a co-worker walked past and asked the applicant what he was looking at. He punched the applicant, knocking him to the ground, and struck him over the head with a metal pipe. The applicant received a laceration to his scalp, 14 cm long and 4 cm deep. As a result, he was absent from work for ten weeks and still suffers from headaches and a

burning sensation at the site of his injury. The offender was convicted of assault with a weapon and sentenced to 14 days in prison or a \$500.00 fine. The Board found that the application qualified under Section 5(a) of the Act and awarded \$2,000.00 pain and suffering 7(1)(d); and \$75.00 loss of income to appear before the Board 7(1)(f), for a total award of \$2,075.00.

☐ FILE: 922-018456

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 23-year-old construction worker, had entered a submarine shop at approximately 3:00 a.m. when he and another male bumped into each other. The offender bumped the applicant again and attempted to start an argument but the applicant ignored him and began to talk to some of his friends in the shop. The offender picked up a large knife from behind the counter and began to swing it at the applicant. In an attempt to fend off the offender, the applicant picked up a table and held it in front of himself but was slashed in the left shoulder. The applicant was transported to the hospital where his laceration was sutured and he was discharged. The wound healed uneventfully although the applicant experienced significant weakness in the area of injury. The young offender was charged with assault with a weapon and weapons dangerous to public peace. He was given one year probation. The Board found that the application qualified under Section 5(a) of the Act and awarded \$101.40 ambulance and medical care costs 7(1)(a); \$6,937.60 pecuniary loss - victim 7(1)(b); \$1,500.00 pain and

suffering 7(1)(d); and \$45.00 hospital record costs 7(1)(f), for a total award of \$8,584.00.

Sexual Assault

□ FILE: 922-017420

Hearing held in camera. This application was brought forward by the natural father on behalf of a daughter, born February 28, 1971, who was subjected to inappropriate kissing and other forms of sexual contact including genital fondling by her mother's common-law partner between the spring and fall of 1983. She revealed these incidents to her father in 1985. The police were then contacted and the investigation initiated. Reports submitted to the Board documented the feelings of despair and frustration experienced by the victim as a consequence of her mother's failure to believe her when she told her mother about these occurrences. The mother required the victim to apologize to the offender and subsequently decided to leave the children in order to continue her relationship with the offender. These reports further documented the victim's tension and anxiety about testifying during the criminal proceedings and her hospitalization in 1985 following an attempted suicide. The victim participated in a twelve session course of therapy. The applicant in his testimony before the Board portrayed the victim as managing well both academically and socially. She now desires to pursue her education beyond the secondary level. He expressed his anxieties about possible future consequences of the occurrence. The Board drew to his attention the provisions of Section 25 allowing for consideration by the Board of expenses, arising directly from the occurrences, such as those for future counselling, upon receipt of the appropriate documentation. The offender was convicted on two counts of sexual assault with respect to this victim as well as another two

charges with respect to her sister. A third charge relating to the sister was withdrawn. The offender was sentenced to eight months concurrent on each of the four convictions and placed on three years probation. The Board found that the application qualified under Section 5(a) and ordered that the sum of \$7,500.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36(6) of the Trustee Act to the credit of the victim and held until she attains the age of 18 years for a total award of \$7,500.00 plus accrued interest.

□ FILE: 922-016506

Hearing held in camera. This application, which was originally brought before the Board by the victim's father, is now carried forward in her name since she has reached her majority. The occurrence is the same as that involved in files 922-016507 and 922-016508. On the evening of August 27, 1985 the then 16 year old applicant, a student, and two of her girl friends went to a restaurant where they were eventually approached by the offender who told them that all his money and belongings had been stolen. He asked them for a lift to help start him on his way home to a neighbouring country. Since the girls felt that they would be safe as a threesome they agreed to give the offender a lift to the rail line. When the young women balked at proceeding down a dead end street to which the offender had directed them he produced what appeared to be a handgun though it was eventually found to be only a very convincing facsimile. During the ensuing 18-hour ordeal the young women were forced at gun-point to three different locations at each of which they were sexually assaulted and forced to perform various other

acts. Eventually the offender shredded their clothing and left all three bound, naked, in a field under the impression that he was about to kill them in order to ensure that they not be able to identify him. Soon after he left the scene they were able to undo their bonds and seek assistance from a woman in a nearby house. The police were then called and the three young women taken to a Medical Centre. A medical examination revealed scratches about the applicant's legs, buttocks and upper left arm and shoulder as well as a tear and edema about the anus. Medication was prescribed and she was discharged. The three friends attended weekly counselling sessions for approximately seven or eight months. The professionals who counselled this applicant subsequent to the occurrence reported to the Board on the emotional shock, reactive depression, unpredictable periods of tearfulness, irritability, feelings of fear and sleeping difficulties she experienced. A counsellor noted that her youthfulness and lack of prior sexual experience had made the resolution of the trauma particularly difficult and would certainly affect her entire life. At the same time she reported that the applicant was a very mature young woman who had worked very hard to overcome the effects of the terrorism. Though she is felt to have dealt well with the trauma there is still concern over the possible future effects of the trauma since these are still to be determined and the layers of pain and grief, anger, loss and adjustment will continue for years. The applicant is uncomfortable when there is someone seated in the back seat when she is driving and feels fearful in enclosed spaces such as elevators. In addition as a con-

sequence of the occurrence she doubts people's sincerity. A claim for clothing damaged and money stolen during the occurrence was denied since compensation for such items falls outside the Board's jurisdiction. However the Board drew to the applicant's attention the provisions of Section 25 should there be further expenses as a consequence of the need for more counselling. The offender was charged with three counts of kidnapping, sexual assault, buggery, gross indecency and robbery. He was subsequently declared to be a dangerous offender and sentenced to incarceration in a federal prison for an indefinite period. The Board found that the application qualified under Section 5(a) and awarded \$266.25 expenses 7(1)(a); \$270.00 pecuniary loss victim 7(1)(b); \$18,000.00 pain and suffering; a \$350.00 legal fee and \$407.50 disbursements for a total award of \$19,293.75.

□ FILE: 922-017024

Hearing held in camera. With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant was originally the mother of a sexual assault victim however upon attaining the age of 18 in 1988, the victim became the applicant. At the age of 16, after running away from home four times, the applicant disclosed that she had been sexually assaulted for years by her natural father. Subsequent to this disclosure, the applicant received counselling and enrolled in group therapy with other female adolescents who had been abused. Counsellors who worked with this group believed that the sessions helped the applicant by providing an accepting and supportive environment in which she could discuss the relationship between

herself and her father and vent her anger towards the rest of her family for their lack of understanding and support. The applicant later attended another group for victims of sexual abuse and, over a ten week period, took part in discussions but still found it difficult to discuss the abuse. The group coordinator concluded that the applicant's emotional health had been significantly hampered by the abuse, and her school progress, social adjustment, family and peer relationships were considerably disrupted. She may need further counselling later in life to fully resolve these issues. The offender was convicted of sexual assault and sentenced to seven months in prison plus three years probation. The Board found that the application qualified under Section 5(a) of the Act and awarded \$8,000.00 pain and suffering 7(1)(d).

□ FILE: 922-019812

Hearing held in camera. The applicant, an 18-year-old female, had been forced into an alleyway under threat of a knife and sexually assaulted. When her assailant fled she was able to run home and tell her parents, who contacted police immediately. Since the occurrence, the applicant has received counselling on four occasions in an effort to help her deal with fears of being alone. However the applicant told the Board that she has made little progress and, because she does not like to discuss the occurrence, has refused to seek further professional assistance. The applicant has become totally dependent on others to ensure her safety and frequently requires their company and transportation assistance. From March 1987 (the date of the assault) until November 1988, she travelled to and from work daily by taxi. For her

rare social outings she relied on either taxis or her parents for transportation. Consequently, she spent most of her earnings on transportation costs. The offender was charged with sexual assault but was found not guilty due to a technicality. The Board found that the application qualified under Section 5(a) of the Act and awarded \$5,000.00 transportation expenses 7(1)(a); \$10,000.00 pain and suffering 7(1)(d), and \$500.00 solicitor's fee, for a total award of \$15,500.00. Under Section 25 of the Act, the Board will consider payment of the costs of counselling or therapy as required in the future by the applicant and any travelling expenses related to it. The applicant's solicitor will correspond with the Board regarding a possible course of treatment and the cost thereof for the Board's approval.

□ FILE: 922-018080

Hearing held in camera. An extension of the limitation period was granted for this application. From the age of six to fourteen, the applicant was sexually assaulted by his father. The applicant was also forced to watch his sister and brother engage in sexual acts and was told that this was normal. The offender also continually exposed his children to his pornographic photo collection along with a vulgar narrative to describe the pictures. When the applicant was fourteen years old, he threatened his father with death unless the sexual assaults stopped. After these events were eventually disclosed, the applicant was disowned by his family and disfellowshipped from his religious organization. He travelled around and lived a bohemian lifestyle. He tried to cope with the sexual assaults by blocking out his memory of the past but was

troubled with thoughts of suicide. He felt alienated from others and harboured great anger towards his father. He is currently receiving psychiatric help. The offender was charged in relation to the sexual assaults upon the applicant's siblings and was sentenced to 2 years less one day concurrent, to be served in a reformatory. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$12,000.00 pain and suffering 7(1)(d); and \$300.00 solicitor's fee, for a total award of \$12,300.00.

□ FILE: 922-019317

Hearing held in camera. The applicant, a 22-year-old female at the time of the occurrence, was on her way to work when she was sexually assaulted in the parking lot outside her apartment building. Upon examination at the hospital she was found to suffer from significant emotional trauma. There were no physical injuries. The applicant's employer covered her loss of income and her only expense claimed before the Board was \$50.00 for a medical report. The Board covered loss of income for the applicant's fiancé who took three-and-a-half days off work to stay with her immediately following the assault. Charges against the offender were dismissed due to lack of positive identification. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$8,000.00 pain and suffering 7(1)(d). The Board also awarded \$213.06 to the applicant's fiancé for his loss of income, for a total award of \$8,213.06.

□ FILE: 922-019558

Hearing held in camera. The applicant, a 25-year-old female, was sexually assaulted in her own home

at approximately 2:00 a.m. A male broke into her apartment, covered her face with a towel and raped her several times before fleeing at approximately 6:00 a.m. He also rummaged through all her personal belongings. At hospital the applicant was noted to have sustained bruising to her thighs, left arm and wrist during the assault. In addition, she suffered from substantial emotional trauma. Reports filed by a psychiatrist state that the applicant underwent panic attacks, fear and mistrust of others, displaced rage toward her attacker, anxiety and depression after the assault. In an attempt to alleviate some of this suffering, the applicant moved to a new home and changed jobs. The offender was not apprehended. The Board found that the applicant qualified under Section 5(a) of the Act and ordered compensation of \$18,000.00 pain and suffering 7(1)(d), and \$30.00 to cover the applicant's travel costs to attend the Hearing 7(1)(f). It also awarded \$1,250.00 to the applicant's solicitor for his payment of counselling services received by the applicant, \$1,770.10 for further disbursements, and \$400.00 legal fee, for a total award of \$21,450.10. The Board advised the applicant that should she opt for further counselling as recommended by the psychiatrist, the provisions of Section 25 would allow for consideration of these costs upon receipt of a proposed course of treatment and associated costs submitted by the therapist or psychiatrist. The Board further advised that in awarding any further compensation it would be required to consider the amount already awarded the applicant as it is limited by a \$25,000.00 lump sum payment maximum established in the Act.

□ **FILE: 922-018489**

Hearing held in camera. On May 20, 1987 the now 34 year old female applicant was taken hostage while on duty at an institution. She was held for five hours, gagged for a time and a knife held to her throat while her life was under constant threat. She was sexually assaulted. Eventually a negotiator broke into the room and she was released. On July 23, 1987 a doctor of the Institute of Psychotherapy found the applicant to be very emotionally upset, tense, anxious and fearful. She was afraid to go anywhere, felt depressed and suffered from both disturbed sleep and a diminished appetite. The doctor diagnosed the applicant as suffering from a gross stress reaction with severe phobia and marked feelings of depression. After she was placed on tranquilizers and was seen bi-weekly her anxiety began to show a slow and gradual improvement. Though the applicant returned to work on a part-time basis in late October, 1987 she continued to take medication for her anxiety and in order to sleep. In his report of February 9, 1988 the doctor stated that a prognosis was difficult to make in this case. The applicant moved several times to remove herself from the locality of the assault. She continues with therapy once a month and takes tranquilizers daily. Though she has dealt courageously with the trauma and has returned to work she would still seem far from a total recovery from her horrifying experience. The offender, who had previously been declared a dangerous offender, pleaded guilty to hostage taking, sexual assault with a weapon and forcible confinement. He was sentenced to life imprisonment and other concurrent terms. The Board found that the application qualified

under Section 5(a) and awarded \$18,000.00 pain and suffering 7(1)(d) and \$83.50 other pecuniary loss 7(1)(f) for a total award of \$18,083.50.

□ **FILE: 922-012067**

VARIATION OF ORDER: (Section 25.) Documentary Proceeding. At a Hearing held in 1985, the Board found the 80-year-old applicant to be compensable for pain and suffering, expenses and maintenance costs after she was sexually assaulted in her apartment. After the assault, she developed paranoid delusions and hallucinations and required hospitalization for six months in a psychiatric institution. She was unable to live alone and is now living in a nursing home. Payments initially awarded by the Board for maintenance costs were \$188 per month. Two subsequent Variations increased the periodic payments to \$289 per month and later, \$456 per month. The present Variation reflects an increase in the applicant's nursing home fees and brings the applicant's periodic payments up to \$482 per month. The Board also ordered payment to the applicant of \$156.00 to cover increased costs incurred.

Child Sexual Assault

□ FILE: 922-014895

Hearing held in camera. With the applicant's consent, this application was considered solely on the basis of the documentation filed. The application was initiated by the Office of the Official Guardian but upon attaining the age of majority, the victim became the applicant of record. The applicant was sexually abused by her stepfather over a period of a year-and-a-half. The abuse took place approximately once each week. As a result of the sexual assaults perpetrated against her, the applicant became pregnant and had an abortion. In spite of the threats from her stepfather should she tell anyone of his assaults, she eventually disclosed the abuse to police. The police then delivered her into care and referred the matter to a Children's Aid Society. Counsellors with the Society subsequently placed her in foster care. Subsequent to the applicant's disclosure of the sexual assaults, she received counselling to help her cope with a sense of having been damaged, feelings of guilt regarding the duration of the abuse and its disclosure, her loss of self-esteem and her fearfulness of any repetition of the abuse. She suffered additionally due to a lack of parental support relating to this occurrence, in particular the rejection by her mother. She blamed her daughter for the breakdown of her marriage to the offender and did not believe the sexual assaults had taken place. The applicant benefitted greatly from her participation in a crisis support group which allowed her to share her feelings with other girls in the group. She also benefitted from a special girls' group organized through the Children's Aid Society and through personal counselling. The applicant reported to the Board

that her relationships with males have been adversely affected by the sexual abuse she suffered. She also noted that she dropped out of school and had a child out of wedlock when she was 19 years old in order to counter feelings of isolation and loneliness. The offender was charged with sexual assault, pleaded guilty and was sentenced to 4 years in prison. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$15,000.00 pain and suffering 7(1)(d) to be paid to the applicant in three equal installments over a period of three years. Also awarded was \$250.00 solicitor's fee, for a total award of \$15,250.00. As further counselling may be required by the applicant in the future, she was advised that the provisions of Section 25 would allow for consideration of these costs upon receipt from her therapist of the proposed course of treatment, associated costs and a statement relating the need for counselling to the sexual assaults.

□ FILE: 922-016018

Hearing held in camera. The application was brought forward by a Children's Aid Society, on behalf of a boy born December 27, 1978 who had been a victim of child abuse since birth. The abuse, which was revealed in July, 1984 when the victim was five years old, also involved his two sisters (Files: 922-016016 and 922-016017). The Board heard extensive evidence from the investigating police officer and several workers from the CAS. The evidence of the police officer, who had spent much time with the children, particularly impressed the Board. He described graphically the extent and intensity of the physical abuse as well as the torture and sexual abuse of all three children

which had started in their infancy. There were as many as 15 different acts of torture or abuse occurring every day seven days a week. The children, who were taken into custody in July, 1984, were all made crown wards in January 1986. They are now living together in a sympathetic foster home in a new community and attending a new school. Though all those involved in the care of the children are aware of the need for extensive therapy the abuse has been so severe that a very specialized therapy will be required. This has not yet been undertaken. It was the view of the Board that it was premature either to assess the impact of the pain and suffering on the children or to make a prognosis for their future. All expenses for their care or for therapeutic treatment are the responsibility of the CAS until they reach the age of 18. The Board would like to offer assistance with the unforeseen expenses for their upkeep and therapeutic treatment which may be required after that time. Though the Board ordered immediate payment of what it considered only a partial payment of compensation to be held for the victim in an interest bearing account until he reaches the age of 21 in 1999 it expressed its wish to arrange for a further disposition of funds under Section 25 in the latter half of 1995 when the victim will be 17. At that time the CAS should provide the Board with an up-to-date assessment of the victim which will outline his future plans and identify any anticipated financial needs or therapeutic treatment. The victim's mother was convicted on three charges of assault and her companion on three charges of aggravated assault and sentenced to 4 1/2 and 6 years imprisonment respectively.

A juvenile was sentenced to three years in a detention centre. The Board found that the application qualified under Section 5(a) and ordered that the sum of \$12,500.00 be paid to the Accountant of the Supreme Court of Ontario under Section 36(6) of The Trustee Act to the credit of the victim and held until he reaches the age of 21.

□ FILE: 922-019241

Hearing held in camera. With the applicant's consent, this application was considered solely on the basis of the documentation filed. This application was brought forward by the Children's Aid Society on behalf of a girl who was sexually assaulted on a daily basis from the age of 5 until the age of 12. The offender was her great-uncle who became her legal guardian after her mother deserted the family and her father committed suicide. Medical reports indicate that while the victim is bright and insightful, her development appears to have been arrested due to the events to which she had been exposed. She has been deeply scarred and her recovery will be slow and possibly incomplete. She experiences great difficulty with close relationships and goes through periods of great unhappiness and stress. She is very fearful of all males. The offender was convicted of sexual assault and sentenced to 18 months in prison plus 3 years probation. The Board found that the application qualified under Section 5(a) of the Act and awarded \$15,000.00 pain and suffering 7(1)(d) to be paid to The Accountant of the Supreme Court of Ontario, under Section 36(6) of The Trustee Act, and to be held in trust and invested for the benefit of the applicant until she reaches the age of 18. The victim was also advised of the provisions of Section

25 should she wish compensation for the costs of any future counseling she may require.

Assault Police Officer

□ FILE: 922-017370

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant was a 31 year old police officer who was assaulted on December 14, 1985 when he and another officer were called to a residence about 8:40 p.m. to deal with an offender who had threatened to commit suicide and had attempted to take an overdose. The officers informed the offender that they were arresting him under the Mental Health Act and would take him to hospital. The offender put a hunting knife to his throat and told the officers that they would have to shoot him. When the offender released his grasp on the knife after a brief conversation the applicant tried to relieve him of it. A violent struggle then ensued during which the applicant received a laceration to the left hand and a blow to his right hand. 12 stitches were required to close the laceration. The applicant was able to return to work after 5 weeks though a considerable numbness remains in his index finger. His doctor reported that it takes about a year to recover from this type of injury and though the applicant will not regain complete sensation there should be considerable improvement. The offender was given 2 years probation after being convicted of assault with a weapon. The Board found that the application qualified under Section 5(a) and awarded \$300.00 pecuniary loss-victim 7(1)(b) and \$2,500.00 pain and suffering 7(1)(d) for a total award of \$2,800.00.

□ FILE: 922-020145

The applicant, a 30-year-old police officer, had administered a roadside alcohol screening test to a

driver and upon his failing the test, the applicant informed him that he would be arrested. The driver became tense and attempted to escape the custody of the officers. A struggle ensued, involving many officers, before the offender was subdued and taken to the police station wearing two sets of handcuffs and leg restrictions. In the scuffle, the applicant sustained a cut over his right eye and superficial lacerations to the back of his right hand. He developed severe headaches, diagnosed as post-traumatic headaches, which persisted for several months. The applicant has experienced considerable anxiety as a result of the assault and feels he may need future counselling. The Board advised that under Section 25 of the Act, costs of counselling or therapy as required in the future by the applicant will be considered for payment. The offender was convicted of assault police officer and given 3 years probation. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$235.00 paid duty and court time lost 7(1)(b); \$1,500.00 pain and suffering 7(1)(d); \$350.00 solicitor's fee and \$200.00 disbursements, for a total award of \$2,285.00.

□ FILE: 922-018704

With the applicant's consent, this application was considered solely on the basis of the documentation filed. Shortly after midnight on August 23, 1987 the applicant, a male police officer, was administering a breathalyzer test on the male offender who attempted to get up and leave the room while the applicant was preparing the second phase of the test. When the offender persisted in his efforts to leave to get some cigarettes from his brother the applicant reminded

him that he had to provide the second specimen then grabbed his wrists to prevent his exit. During the struggle which ensued the offender punched the applicant to the left of the mouth. A medical report indicated that the applicant had sustained a lacerated lip and the loosening of teeth #2 and #3 on the upper left side. Though x-rays were taken and possible complications discussed no treatment was immediately recommended. His dentist informed the applicant during an October visit that there was no permanent damage. The applicant reported that it took about 2 weeks for the pain to subside. However he felt that the occurrence had affected his attitude in dealing with the public negatively since he characterized himself as more closed off and cautious when working with them. The offender was sentenced to 16 days imprisonment on a charge of assault police. The Board found that the application qualified under Section 5(b) and awarded \$250.00 pain and suffering 7(1)(d).

□ FILE: 922-017220

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 31-year-old police officer, was injured during a scuffle while on duty. At approximately 11:45 on August 8, 1986, he and a fellow officer were dispatched to investigate a call that several intoxicated men, lying on the sidewalk, were impeding pedestrians on a street corner. Upon arrival, the applicant arrested one individual and attempted to bring him to his feet. The offender objected and after a struggle ensued, the applicant was able to move him from the sidewalk to the police vehicle. The applicant then

returned to arrest a second individual and as he bent over, he felt a sharp pain in his groin area. The pain passed quickly and the two officers escorted their three prisoners to holding cells at the police station. The applicant completed his duties for the day and went home to prepare for his vacation which was to begin the following day. Despite a noticeable swelling in his groin area, he went on a three-week vacation as planned and made no medical, or incident, report to his supervisor. During his vacation, his groin area pain continued and was aggravated by walking. On his return to duty he saw his personal physician and reported the situation to his supervisor. A letter on file, from his physician to the Workers' Compensation Board, stated that there were no notes in his file to indicate that the applicant's injury, an inguinal hernia, was a work-related injury. However, his physician also advised the Board that he had completed a full examination of the applicant on June 5, 1986, and there was no evidence of a hernia at that time. While he stated that the hernia may have resulted from the scuffle, he could not verify or refute this. The applicant underwent surgical repair of the hernia and was able to resume full duties as a police officer two months later. His lost wages were covered by full Workers' Compensation Board benefits. In a questionnaire submitted to the Board, the applicant stated that he experienced considerable discomfort until the operation was performed and still experiences tenderness in the incision area. The offenders were convicted of being intoxicated in a public place and fined \$15.00 each. Although

the Board was aware that neither the applicant's personal physician nor the surgeon could confirm a casual relationship between the occurrence and the injury, it noted the absence of a hernia in the June 5th physical examination, and the fact that the Workers' Compensation Board accepted the injury as work-related and paid full benefits. The Board therefore concluded that, on a balance of probabilities, the application qualified under Section 5(a) of the Act and awarded \$600.00 pain and suffering 7(1)(d); and \$57.50 medical report costs 7(1)(f), for a total award of \$657.50.

□ FILE: 922-017671

The applicant, a 30-year-old police officer, was injured in the line of duty during a routine patrol. At approximately 8:00 p.m. he and his partner observed two males in a vehicle smoking marijuana. The applicant initiated an arrest of the offender for possession of a narcotic and while searching him, was pushed off balance. The offender ran and was pursued by the applicant. Before the applicant and his partner were able to subdue the offender, the applicant was struck by the offender who flailed with both hands. At hospital, the applicant presented with two sprained fingers and a swollen nose. Diagnosis by his personal physician the following day revealed that he had sustained fractured nasal bones. As well, two fillings were broken as a result of the incident. The applicant's recovery was complete in 6 - 7 weeks and he currently experiences no adverse sequelae as a result of the injuries sustained. The offender was charged with assault peace officer, escape custody, obstruct police and possession of narcotics. He was convicted on

three of the charges and was sentenced to four months in prison concurrently. The Board found that the application qualified under Section 5(b) of the Act and ordered compensation of \$1,000.00 pain and suffering 7(1)(d); \$350.00 solicitor's fee and \$290.00 disbursements, for a total award of \$1,640.00.

Assault Peace Officer

□ FILE: 922-020098

The applicant, a 35-year-old correctional officer, who had discovered homemade brew in an inmate's cell, called him and a fellow inmate to the supervisor's office for an interview. When one of the inmates lunged at the applicant, a general melee soon erupted involving a large number of inmates and resulting in blows to the applicant's face, head and body. He was able to escape to safety before the altercation escalated into a riot situation. As a result of the assault, the applicant sustained bruises, abrasions, swelling, soreness in his neck and stiffness in a right finger. He also sustained an injury to his left eye which was diagnosed as a "blow-out fracture" of the orbit which left him with some cosmetic disfigurement, permanent numbness of the left lower lid and cheek, and permanent damage of the left optic nerve. The vision in his eye "flares" and is particularly disturbing to him when he drives at night. The applicant currently receives a Workers' Compensation Board partial disability pension. The applicant also suffered from post-traumatic stress disorder resulting in insomnia, nightmares and work-related anxiety. After the incident, he felt the need to transfer to a less stressful position at another institution. Although he claimed that this caused him to incur a loss of overtime income he was unable to provide documentation to substantiate this claim. The offenders were convicted of assault peace officer and were sentenced to 12 months consecutive. The Board found that the application qualified under Section 5(a) of the Act and awarded \$47.00 expenses 7(1)(a); \$7,000.00 pain and suffering 7(1)(d); and \$40.00 other pecuni-

ary loss 7(1)(f), for a total award of \$7,087.00.

Arson

□ FILE: 922-015462

Hearing held in camera. The 25 year old male applicant, jumped from the third floor of an apartment to escape from a fire at approximately 3:00 a.m. on April 15, 1985. Two police officers testified at the Hearing that the cause of the fire was arson. The applicant suffered a number of fractures as a consequence of his jump. His right foot was in a cast for three months and has healed with no restriction of movement. A fracture to an ankle finally required a second operation to fuse the ankle. This fracture required a cast for 4 months. The ankle still remains very sensitive to touch. Though the applicant is supposed to wear a brace on that leg to assist his walking he was not wearing it to the Hearing and informed the Board that he did not wear the brace in the summer. A compression fracture of the L2 spine healed under conservative treatment though the applicant complains of occasional back pain. The applicant put in as claim for unspecified loss of income. Since his arrival in Canada in 1980 most of the applicant's employment had been part-time though he had had periods when he was not working. Two weeks prior to the occurrence he had started a full-time job as a fast food delivery driver. The applicant returned to work as a driver for another restaurant in early 1988. After a careful examination of the medical evidence and the applicant's work record the Board made an allowance of \$5,000.00 toward loss of income for a period of inability to work assessed as a year. The offender was charged with a number of counts of arson and given a suspended sentence plus 3 years probation with psychiatric treatment which was still

continuing at the time of the Hearing. The Board found that the application qualified under Section 5(a) and awarded \$5,000.00 pecuniary loss-victim 7(1)(b); \$8,000.00 pain and suffering 7(1)(d); a \$450.00 legal fee and \$331.00 disbursements for a total award of \$13,781.00.

□ FILE: 922-018737

Hearing held in camera. With the applicant's consent, this application was considered solely on the basis of the documentation filed. This application was brought forward by the father of a young man who died as a result of arson. His son was 19 years old and worked as a pharmacy assistant. The applicant claimed funeral expenses in the amount of \$3,751.00 and a loss of income incurred by the victim for the time between the incident and his death. The Board found that the application qualified under Section 5(a) of the Act and awarded \$2,700.00 7(1)(a), the maximum amount allowed by the Board for funeral expenses, and \$150.00 solicitor's fee, for a total award of \$2,850.00. The Board did not compensate for the victim's loss of income however, as such a claim is not valid after his death. At the time of the Hearing, court proceedings with regard to this occurrence were pending.

Dangerous Use of Firearm

□ FILE: 200-8102

The applicant, a 28-year-old courier driver, received a gunshot wound to his head after the accidental firing of a gun. He had been socializing with friends when conversation turned to a gun in their possession. He was given their apartment keys in order to view the gun and to spend the night there. He went to their apartment, looked at the gun and eventually fell asleep on the couch. Sometime later, the applicant was awakened by the return of one of his friends. She picked up the gun and, while demonstrating one of its features, it discharged and wounded the applicant. Police and an ambulance were immediately called. His wound extended from the right cheek to the hairline behind the right ear. The lower half of the ear was missing and the auditory meatus had been destroyed. He had also suffered a fractured mandible. A nerve graft was taken from the right leg and used to repair the facial nerve. Skin grafts from the thighs were used on the face and neck. The applicant was left with total nerve deafness in the right ear in addition to the partial deafness he already experienced in his left ear prior to the wounding. He was fitted with a hearing aid in his left ear before his discharge from hospital. He also suffered from partial facial palsy on the right side affecting his cheek, forehead and upper lip. At the Hearing the applicant stated that it took approximately 12-18 months for the scars to heal and he still has facial numbness on the right side. The offender was charged with careless use of a firearm and the case was dismissed in court. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$277.00 hearing

aid 7(1)(a); \$1,102.00 loss of income 7(1)(b); \$8,000.00 pain and suffering 7(1)(d); and \$99.50 costs associated with attending the Hearing, for a total award of \$9,478.50.

Denial

□ FILE: 922-018077

The applicant having been informed of the Hearing and having failed to appear, the Board heard the application under the authority of the Statutory Powers Procedure Act on the basis of the documentary evidence filed. The 30 year old male applicant was punched in the face by the alleged offender on September 21, 1986. His application states that he had been punched in the nose while walking to a restaurant and that he had suffered two black eyes. The Board investigator's report stated that the applicant, while in hospital, had told the police investigator that he had been involved in a political discussion with the alleged offender while they were in a restaurant drinking and playing cards. When they began to push and shove each other they were both ejected. The alleged offender had punched the applicant in the face twice before fleeing in his car. The police investigator spoke a week and a half later with the alleged offender who stated that the argument had been over payment for the windshield of his car which he claimed the applicant had broken. He also stated that the applicant had followed him to the washroom while continuing the argument and had punched him in the mouth cutting his lip. The alleged offender admitted to having then punched the applicant in the face. The Police declined to lay charges because of the conflicting stories and the lack of independent witnesses. Both applicant and alleged offender were advised how to lay a private information charge. No charges were ever laid. The Board was unable to find that, on a balance of probabilities, the applicant was injured in the circumstances he described

rather than in those described by the alleged offender. Since the Board was unable to find that the applicant's own behaviour had not been the direct cause of his injury his application was denied.

□ FILE: 922-017684

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, an unemployed 27-year-old male, claimed to have been kicked from behind as he was riding up the escalator in a subway station. He was allegedly kicked in the back of the left leg by the unknown offender who then grabbed him and pushed him down the escalator. Hospital records indicated that the applicant had attended the emergency department and included a notation stating that he was intoxicated and had fallen down the subway stairs. He was discharged with a diagnosis of a bruise to his right forearm and a laceration to his left knee. The alleged offender was not apprehended. After consideration of the evidence, the Board denied the application, concurring with the medical evidence which indicated a fall rather than an assault.

□ FILE: 922-017210

The applicant, having been informed of the Hearing, failed to attend on two separate occasions, and the Board, under the authority of the Statutory Powers Procedure Act, heard the application on the basis of the documentary evidence filed and viva voce evidence given by witnesses and the alleged offender. In her application before the Board, the applicant had stated that she was crossing a street at approximately 1:15 a.m. when she was assaulted by her sister who pulled her hair, inflicted three small cuts above her right eye, punched her in

the chest where she had recently had a mastectomy, and opened a neck incision from another recent operation. The applicant's sister, who attended the Hearing, stated that she and her sister did not get along well together. She said that she and two friends had spent the evening playing bingo and afterwards had gone to a tavern. There they met the applicant's son who got into an argument with one of his aunt's friends. The three women then left the tavern and on their way home, met the applicant. The applicant called her sister a name and when the sister responded in kind, the applicant swung her purse and hit her sister in the chest. At that point, the sister slapped the applicant in the face. The investigating police officer was of the opinion that this was one incident in a long-standing family feud. The applicant laid a private information charge which the alleged offender followed with her own counter charge. When the matter came up for trial both women entered into peace bonds. After consideration of the documentary evidence and the testimony of the alleged offender and police witness, the Board concluded on a balance of probabilities that the applicant was not a victim of a crime of violence and denied to make an award.

□ FILE: 922-014112

The applicant, having been informed of the Hearing, failed to attend and the Board, under the authority of the Statutory Powers Procedure Act, heard the application on the basis of documentary evidence and the testimony of a police witness. The applicant and some friends were drinking along the banks of a creek when an argument broke out among themselves. The applicant was suddenly

struck across the left eye with a beer bottle and fell to the ground. He was also cut across the wrist by a beer bottle. The applicant was admitted to hospital and treated for a laceration to his left forearm, which involved the tendon and nerves, and bruising and swelling to his left cheek. He required an operation to repair the damage done to the tendon and nerve and remained in hospital for five days. The applicant stated that he has not regained the full use of his left hand but there was no medical documentation on file to indicate the prognosis of his injury. The investigating police officer, who attended the Hearing, testified that the applicant had reported the assault to police and had laid a private information charge with a Justice of the Peace. When the matter was called for trial, the applicant was not present and the charge against the alleged offender was withdrawn. The applicant had been evicted from his apartment prior to the trial and had made no contact with the police. The investigating officer had been unable to contact the applicant despite going to his home four times and leaving messages. After consideration of the evidence, the Board found on a balance of probabilities that the applicant refused reasonable cooperation with the police and, therefore, denied this application based on the provisions of Section 17(2) of the Act.

□ FILE: 922-017274

The applicant, a 34 year old male painter, had spent the afternoon of December 12, 1986 in a number of bars. He eventually wound up in a tavern where he sat down at a table and talked with a woman he had not previously met. He bought her drinks and eventually agreed to buy

her some hashish. The woman went to the bar to make the arrangements and they then left the tavern with the contact man. As they were walking through a park the man who was walking ahead turned around and stabbed the applicant, who took out his own pen knife and stabbed his assailant under the arm during the struggle. The man and woman stole the applicant's cash and wallet. Though the applicant attempted to follow he was too weak. Officers in a passing police cruiser found the applicant and took him to hospital. Since the doctor was unable to explore his stab wounds because of his state of agitation the applicant was taken to the operating room to undergo a laparotomy. He had received 2 stab wounds in the left lower stomach area and one in the right lower back though none of these wounds had penetrated the peritoneal cavity. He was discharged on December 17, 1986. The doctor who saw him on January 9, 1987 described him as doing quite well with no evidence of infection though the applicant in his own testimony had stated that he had developed an infection in his incision 2 days after his discharge which required him to attend the hospital each day to have his incision packed. The investigating police officer testified that when he spoke to the applicant in the hospital on December 15, 1986 he claimed to be able to identify the woman though not the man but that in any event he would look after them himself. The applicant confirmed this in his own testimony stating that he still looks for the alleged offenders on occasion. Though the police officer arranged 2 photo identification sessions the applicant attended neither. How-

ever he did call police to report that he had received his wallet in the mail on December 23, 1986. The applicant was away from work until mid-April. He suffered a total net loss of income of \$1,988.75. The Board having considered all the evidence presented found that the applicant had participated willingly in a risky and illegal activity, buying narcotics, and had sustained moderate injury. The Board found that his behaviour in accompanying the two strangers to purchase drugs had directly contributed to his injury and therefore had regard to the provisions of Section 17(1). In addition the Board found that the applicant had refused reasonable co-operation with the investigating police officer and having regard as well to the provisions of Section 17(2) denied the application.

□ FILE: 922-016627

This application was brought forward by a mother on behalf of her 14 year old son, a student, who had gone with a friend to play baseball in a school yard on August 5, 1986. While these two were throwing a ball against the wall of a school building three other acquaintances arrived and started to shoot paper clips at trees in the victim's vicinity. When his friend joined them a few minutes later the victim became their target and was hit in the legs half a dozen times. He directed them to stop and continued tossing his ball at the wall. Suddenly about 7:00 p.m. an object bounced off the wall striking him in the right eye. The victim testified at the Hearing that he had assumed it was a paper clip though he saw neither the missile nor the person who threw it. He fell to his knees drawing their attention to his injury but the youths all denied throwing the clip in his direction.

The applicant took her son to the Toronto East General hospital early the next morning when he complained of blurred vision in the right eye. The police were notified by the applicant on August 8 when the seriousness of the injury was diagnosed. The police witness testified at the Hearing that the victim had characterized the incident as an accident when interviewed and had been unable to identify the perpetrator so the investigation was classified as an accidental injury. The hospital examination revealed a penetrating wound of the right cornea with the iris adherent to the back of the cornea and a cataract in the process of formation. The victim was admitted and the corneal wound repaired. The convalescence was uneventful and the victim discharged on August 12. However by August 27 the pressure in the eye had elevated because of increasing cataract changes so the victim was re-admitted and a right lensectomy performed on the 28th. Convalescence was again uneventful. The victim is now aphakic and will have to wear a contact lens for the rest of his life. The limitations this places on him will include limitations on his employment opportunities. The ophthalmologist's report indicated a number of situations which he will have to avoid as well as pointing out a rather high risk of certain other ocular problems, particularly retinal detachment, arising in the future. The victim described to the Board the aching he feels in his eye from time to time and his restriction of the use of the contact lens to two days a week because of the discomfort. Upon careful consideration of all the evidence both oral and documentary as well as the submissions of the applicant's

counsel the Board found that the victim's injuries were indeed incurred as a result of an unfortunate accident and therefore did not fall under the purview of Section 5(a) of the Act and declined to make an order for compensation.

□ FILE: 922-020207

The applicant, a 61-year-old real estate salesman, alleged that he was assaulted by his next-door neighbour. Ill feelings between the two adjacent households had existed for some time and arguments were not uncommon. Prior to the assault in question before the Board, the alleged offender had run into and damaged the applicant's house while backing his car out of the narrow, shared driveway. Police were called but took no action other than to provide a statement with which the applicant could file an insurance claim. Both men felt aggrieved by the incident and seemed to focus the general ill will between the households on each other. At a later date, an altercation took place between the two men which prompted the applicant to seek compensation from the board. However the facts concerning the incident are not clear as each man told a different story. According to the applicant, he was painting his garage door when the alleged offender approached him from the rear and struck him between the shoulder blades. The applicant was pushed forward and in turning to face the alleged offender, fell against the corner of the garage and injured his right shoulder. The applicant kicked at the alleged offender but landed no blows. The applicant's wife, viewing the scuffle from the kitchen window, came out to separate the two men. The alleged offender, on the other hand, stated that he was locking his back door

when he was suddenly grabbed by the applicant and kicked in the shoulder and genitals. He stated that he hit his assailant in self-defense and that the applicant's wife broke up the fight. The applicant suffered a painful right shoulder for which he sought medical advice. Examination revealed bruising in the right shoulder area and tendonitis. Treatment for these injuries consisted in the use of local heat, analgesics and physiotherapy. The applicant was disabled from his work for 6-8 weeks. Although he went to his office he felt that his discomfort would impair the degree of safety with which he could drive his clients to view houses. At the time of the incident, the applicant was receiving a partial disability pension from the Workers' Compensation Board for chronic back syndrome, following an injury at work, and lumbar degenerative disease. The applicant waited a week before reporting the incident to police and swore a private information charging the alleged offender with assault only after police informed him that the alleged offender had laid charges of assault and threatening. During a court appearance seven months after the incident, both men signed a 12 month peace bond and all charges were withdrawn. Taking these facts into consideration, notably the delayed reporting to police, the fact that neither man's injuries were consistent with the testimony of the other, and the belief that both men bore a considerable degree of responsibility for the incident, the Board acted in accordance with Section 17(1) and Section 17 (2) of the Act and declined to make an award.

□ FILE: 922-018739

The applicant submitted an appli-

cation on behalf of her son who she believed had suffered nervous shock as a result of an incident which took place when he was six years old. The applicant was at a night class while her son and his two brothers were at home with a babysitter when suddenly his father, whom the children had not seen in two years, broke into the house. He was wielding a machete and proceeded to smash all the windows and slash everything in sight. The children and babysitter fled to the neighbour's residence where police were called. There was no physical attack made upon any of them. A psychiatrist's report noted that it was difficult to distinguish between psychological damage that had occurred as a result of the incident and that stemming from the chronic stressful situation in the home. She made a diagnosis of acute situational reaction and provided family therapy sessions. In order for the Board to establish the injury "nervous shock", it requires psychiatric evidence of an identifiable mental disorder which resulted from the occurrence with symptoms and behaviour beyond what would be considered normal for that particular person in the particular circumstances of the occurrence. The acute situation reaction experienced by the boy was not beyond what would be expected in these circumstances and the application was, therefore, denied.

□ FILE: 922-017243

The applicant having been duly notified of and having failed to attend the Hearing, the Board, under the provisions of the Statutory Powers Procedure Act, proceeded to hear this application on the basis of the documentation filed and the evidence of a police witness. The then 17 year old male

applicant was involved in a physical confrontation with the alleged offender, one of his acquaintances, on May 1, 1986. The police witness confirmed the documentary evidence that the applicant made a derogatory comment directed at the alleged offender's girlfriend and that the confrontation then ensued. The applicant was seen at the hospital on the afternoon of May 1, 1986. Their records describe some tenderness in the paracervical muscles, bruises on both cheeks and behind his ear and a goose egg above his right eye. Hematomas and discolourations were noted on both sides of his forehead and temporal areas as well as superficial abrasions to his left elbow and wrist. Though he complained of dizziness, x-rays of his skull and paranasal sinuses proved normal. Though the applicant had been properly subpoenaed to appear at the trial of the alleged offender he failed to do so sending an excuse at the last minute. When a second trial date was set the applicant could not be located for delivery of the subpoena. His solicitor was informed and has advised the Board that he warned his client regarding the consequences of a further non-appearance. The applicant in fact failed to appear and the Crown, which had found the applicant most unco-operative at all times, withdrew the charges against the alleged offender. The applicant's solicitor had further informed him that his claim before this Board could be jeopardized by his non-appearance at Court. The Board after considering all the relevant circumstances has taken into consideration the provisions of Section 17(2) and declined to make an award to the applicant. However it ordered payment to the applicant's solicitor of \$150.00 for

his assistance to the Board and \$40.00 for disbursements. The police witness was ordered reimbursed \$62.00 for his \$37.00 travel costs and awarded a \$25.00 witness fee. The total of these costs was \$252.00.

Incest

□ FILE: 922-018070

Hearing held in camera. The application was brought forward by a mother on behalf of a daughter born September 6, 1971 who was subjected to repeated sexual abuse by her father between September, 1976 and December, 1985. After the disclosure the victim attended both individual and group therapy with the Family and Children Services which have demonstrated to her that the situation is far from hopeless. Her friends and acquaintances are standing by her. The victim told the Board that through her involvement in school sports she managed to cope with her emotional problems. Though she still feels vulnerable at times and remains wary she did not feel a present need for psychiatric treatment. She impressed the Board as a very bright young lady who spoke forthrightly and whose demeanor reflected favourably upon herself. It is the desire of the Board that she have the opportunity to recover from this experience and lead a normal life. The Board is willing to consider under section 25 the future cost of the psychological treatment she may require as a direct result of the sexual abuse. The offender was sentenced to 18 months plus three years probation for indecent assault. The Board found that the application qualified under Section 5(a) and ordered that the amount of \$12,000.00 be deposited with the Accountant of the Supreme Court of Ontario under Section 36(6) of the Trustee Act to the credit of the victim to be paid in two instalments of \$6,000.00 plus interest on her 18th and 21st birthdays. The Board also awarded a \$400.00 legal fee and disbursements of \$9.00 for a total award of \$12,409.00.

Manslaughter

□ FILE: 922-016675

With the applicant's consent, this application was considered solely on the basis of the documentation filed. This application was brought forward by the widow of a murder victim. Her husband, a 30-year-old electronics technician, had gone to a friend's place for a party where they drank beer and played cards.

An uninvited guest arrived and became involved in several verbal altercations with the guests. When he stabbed the victim's brother-in-law, the victim intervened and consequently received a fatal abdominal wound. The offender was convicted of manslaughter and sentenced to 6 years in prison.

The applicant, the victim's widow, presented documentation to support a claim for pecuniary loss she incurred as a result of the victim's death. She established that she was a "dependant" as described in Section 1(c) of the Act. After consideration of the evidence, including the victim's earnings immediately prior to his death; insurance benefits paid following as a result of the victim's death; C.P.P. death benefits paid and payable following the victim's death; and estimates of interest to be generated by the victim's estate, the Board concluded that the applicant had sustained a pecuniary loss of \$440.00 per month plus OHIP coverage previously provided by the victim's employer. The Board found that the applicant qualified and ordered periodic payments to the applicant in the amount of \$470.00 per month subject to annual review by the Board. These payments were retroactive to the date of the occurrence and will continue until either July 2019, the date on which the

victim would have reached his 65th birthday, or until the total amount awarded reaches the maximum limit set out in the Act of \$250,000.00 for periodic payments, whichever comes first. The Board also awarded \$2,965.00 for funeral expenses and \$300.00 for the applicant's solicitor.

Attempted Murder

□ FILE: 922-018887

With the applicant's consent, this application was considered solely on the basis of the documentation filed. This applicant, a 24 year old auto worker, was arranging Christmas presents with his girlfriend in her home when her ex-husband walked in and stabbed him without warning. The offender fled the scene after stabbing him several more times when he realized that his ex-wife had gone for help. The applicant was treated in hospital for several stab wounds to his head and chest. One 3.5 cm laceration and another of 5 cm pierced the scalp to the bone. Two wounds pierced the chest cavity resulting in a collapse of the left lung and a laceration of the spleen. There were several other lacerations and associated injuries all of which placed the applicant in a death-threatening situation. The applicant was treated in intensive care and required multiple blood transfusions. The injuries were repaired surgically. The applicant was released from hospital two weeks after the incident. However, he was off work for 2 1/2 months while his recovery was monitored by his doctor. The applicant informed the Board that he had not felt well again until 5 months after the occurrence. He had experienced headaches, stomach aches and suffered from bad nerves. He had also had nightmares which precipitated stomach cramps, headaches and cold sweat. The offender was convicted on a charge of attempted murder and sentenced to eight years. The Board found that the application qualified under Section 5(a) and awarded \$22.00 expenses 7(1)(a); \$2,119.29 pecuniary loss-victim 7(1)(b); \$8,500.00

pain and suffering 7(1)(d); and \$30.00 other pecuniary loss 7(1)(f) for a total award of \$10,671.29.

Murder

□ FILE: 922-016528

Hearing held in camera. The application was brought forward by the victim's former husband as a result of her murder on May 12, 1986. The claim was for a loss of financial support on behalf of the victim's children and expenses incurred by the applicant and the victim's mother as a consequence of the murder. The funeral expenses had been covered by the CPP funeral benefits and a generous donation by the victim's employer. The Board noted that by Letters of Administration dated November 3, 1987 the victim's mother was appointed administratrix of her estate and assumed custody of the victim's two children, a boy born January 4, 1975 and a girl born February 4, 1977. According to documentation filed with the Board the victim's monthly income at the time of her death was \$1,050.00. After taking into consideration 20% for the victim's personal use, a CPP payment her mother has been receiving for the children and after noting a reduced disability pension for the girl the Board concluded the monthly loss of income to be \$700.00 and awarded that sum to the victim's mother monthly for as long as she has the care of the children. The Board assumed that the deceased would have cared for the boy as long as he attended school and the girl for as long as she would have needed support. A lump sum payment of \$20,000.00 was ordered paid to the mother to cover the period from May 12, 1986 to October 31, 1988 and the monthly periodic payments were to commence in November, 1988. Payment for a number of other items was also authorized. After a conviction for first degree murder the offender was sentenced to life with no parole for

25 years. The Board found that the application qualified under Section 5(a) and awarded \$212.28 other pecuniary loss 7(1)(f); a \$600.00 legal fee; disbursements of \$56.50 and the \$20,314.00 to the victim's mother referred to above for a total award of \$21,182.78.

Robbery

□ FILE: 922-011500

This application had been heard earlier but decision was reserved at the request of the applicant's solicitor who wished to submit additional medical documentation and a list of expenses. The applicant, a 24-year-old worker in a record plant, was choked with a rope, punched, kicked, bound and gagged, and assaulted with a tire iron by two males. He was then left unconscious under a bridge on a frozen creek. He regained consciousness and went to a nearby house for help. The applicant was admitted to hospital and was treated for multiple lacerations to his face and scalp requiring approximately 80 sutures, a laceration to his right arm, bruising to both shoulders, facial swelling and bruising, and general soreness. It was two months before his injuries healed and six months before all the soreness had disappeared. He had continuing headaches and dizziness but a neurological examination proved normal. He has also been left with some facial scarring and was advised by the Board that should he opt for future cosmetic surgery, the Board would cover any expenses involved, under Section 25 of the Act. The applicant was absent from work for twelve weeks. He sustained a net income loss of \$1,642.00 but received benefits of \$1,179.00 leaving a net loss of \$463.00 which the Board covered. The offenders were convicted of kidnapping and robbery. One received three years on each charge (concurrent) and the other received four years and two years (concurrent). The Board found that the application qualified under Section 5(a) of the Act and awarded \$463.00 loss of income 7(1)(b); \$5,000.00 pain and

suffering 7(1)(d); \$42.70 other pecuniary loss 7(1)(f); \$400.00 solicitor's fee and \$200.00 disbursements, for a total award of \$6,105.70.

□ FILE: 922-017780

With the applicant's consent, this application was considered solely on the basis of the documentation filed. The applicant, a 39-year-old woman, was in a hotel bar seated with her husband and two other women. An argument broke out and one of the women slapped the applicant across the face. As a result of this, the applicant and her husband left the table and moved to another area of the bar. Later in the evening, the applicant was leaving the washroom when she was attacked by the two women. She was robbed of her money by the woman who had earlier slapped her. After escaping her assailants, she called police and the offenders fled. Two days later the applicant saw her doctor where she was noted to have bruises below one eye, scratches on her nose and bruises in the shape of teeth on both forearms. She was also suffering from anxiety. No treatment was rendered by her doctor. The offenders were charged with robbery with violence. Charges against one woman were dismissed. The second woman was sentenced to 6 months in jail plus 2 years probation. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$800.00 pain and suffering 7(1)(d), and \$150.00 solicitor's fee, for a total award of \$950.00.

□ FILE: 922-017123

The applicant, a 74-year-old woman, was about to enter a bank when a male came running out, having just robbed the bank, and

pushed her to the ground. After the incident, the applicant visited her family physician who, in his report, indicated that in addition to being pushed, the applicant was struck on her right shoulder by the bank door as the offender emerged. The applicant complained of excruciating pain in her shoulder, dizziness, nausea, headaches, weakness and faintness. She had difficulty sleeping, became irritable and couldn't dress herself, do her housework or get out of the bathtub unassisted. She continues to require her husband's help/assistance to perform these functions as her shoulder pain remains steady and is aggravated by movement. Her doctor diagnosed her as suffering from severe tendonitis and post-traumatic stress syndrome. The long-term prognosis is uncertain. At the Hearing the applicant appeared very frail and reported she had lost about 20 pounds. She had previously been well and able to accomplish all her daily activities. The offender was convicted of eight counts of robbery and received 4 years on each charge to be served concurrently plus one year consecutive for use of a firearm. The Board found that the application qualified under Section 5(a) of the Act and awarded \$3,500.00 pain and suffering 7(1)(d); \$350.00 solicitor's fee and \$305.00 disbursements, for a total award of \$4,155.00.

Robbery Assault

□ FILE: 922-014111

This application had been heard earlier by the Board however the decision was reserved pending receipt of further medical information. The applicant, a 63-year-old teacher, was assaulted and robbed of her purse while in the elevator of her apartment building. The offenders pushed her against the side of the elevator, grabbed her purse and fled. The applicant was able to chase one of the offenders far enough to see him enter an apartment across the street. The applicant told the Board that she was required to spend five days in bed as a result of injuries sustained in the assault. She was first seen by a doctor more than three weeks after the incident when she was noted to have bruising to her left arm, left breast, right hand and foot. She was also anxious and depressed. Further medical documentation did not satisfy the Board that other medical problems were the result of the assault. Hormone injections and chiropractic treatments were not considered to be necessary treatment for her injuries therefore receipts for these treatments were not considered as part of her claim. The Board also did not accept the applicant's statement that she was unable to return to work in September but rather assessed her period of disability as May 25 (the date of the assault) until the end of the school year in June. She lost no income during this period as she was paid on sick leave. The Board however did recognize that the applicant sustained physical injuries and underwent significant emotional trauma as a result of the occurrence. The two offenders were convicted. One was given a sentence of ten months in jail and the other, a suspended sentence and two years probation.

The Board found that the application qualified under Section 5(a) of the Act and awarded \$77.35 expenses 7(1)(a); \$5,000.00 pain and suffering 7(1)(d); \$500.00 solicitor's fee and \$46.56 disbursements, for a total award of \$5,623.91.

Variation

□ FILE: 922-016322

VARIATION OF ORDER - (Section 25) The applicant, the mother of a murdered 16-year-old boy, had applied to the Board for certain funeral expenses and for pain and suffering following her son's death. The funeral expenses were ordered paid however the Board was unable to find that she suffered from nervous shock so as to constitute an injury under the Act. Further documentation submitted to the Board since that Hearing however, enabled the Board to reconsider her application for pain and suffering. The applicant's initial reaction after her son's murder was to maintain absolute control for the family's sake however, her condition began to deteriorate with the passage of time until approximately six months after the murder when she developed post-traumatic stress disorder, depression, panic disorder and agoraphobia. She was unable to maintain her job and required several months off work. When she attempted to return to work, she was unable to withstand the stress and her increased feelings of panic and agoraphobia. Her condition deteriorated to the point where she was often unable to go out on her own and had to stop driving her car. When she did go out, or when driving, she experienced symptoms of panic which included tachycardia, hyperventilation, dizziness, faintness, sweating and a feeling of terror. At other times she also experienced feelings of helplessness and a numbing of general responsiveness. Prior to her son's murder, she had been an open, gregarious, hardworking and personally strong individual. In an attempt to help deal with these feelings, the applicant has sought counselling and psychotherapy regularly, in addition

to taking medications. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation of \$10,000.00 pain and suffering 7(1)(d).

□ FILE: 200-9165

VARIATION OF ORDER: (Section 25.) Documentary Proceeding At the original Hearing in 1985, the applicant was awarded the maximum amount allowed by legislation at the time, a \$7,500.00 lump sum plus \$500.00 per month, after she was brutally beaten and stabbed in the throat. An amendment to the Compensation for Victims of Crime Act in November 1986 increased the amounts of maximum awards and the Board, therefore, amended the original Order on its own initiative and increased the monthly periodic payments to \$1,000.00. These payments were to continue until December 1987, at which time they were to be reviewed. In December, the review resulted in an Order to award payments of \$200.00 per month and to continue subject to annual review. In July 1988, the applicant requested a further review of her file and an increase in her monthly payments from \$200.00 to \$1,000.00. In dealing with this request, the Board expressed its concern that by increasing its monthly payments to the applicant, the benefits which she received from Community and Social Services may be jeopardized. The benefits involved were more than financial and included services which neither the Board nor an award from the Board could supply. However, the applicant had written to the Board stating that she fully understood that her benefits may be affected by an increased monthly award but after discussion with her

social worker, her doctor and Community and Social Services, she nonetheless wished to proceed with her request. The Board, therefore, reviewed the evidence on file and concluded that the trauma of the occurrence, the injuries sustained, and the continuing physical problems and emotional trauma warranted the maximum monthly award for pain and suffering of \$1,000.00 subject to annual review.

□ FILE: 200-155

VARIATION OF ORDER - (Section 25) With the applicant's consent, this application was considered solely on the basis of the documentation filed. On January 11, 1972, the Board found the applicant compensable as a result of a crime of violence and awarded compensation for an injury suffered in his right eye. The Board examined documentation indicating that the applicant has experienced extreme discomfort as a result of the ongoing effects of the injury he sustained as a result of the assault which gave rise to the original application. Medical documentation indicated that following the cataract extraction in the applicant's right eye in April 1981 and the subsequent glaucoma drainage procedure in July 1981, it was noted in October 1981 that the acuity in that eye could be improved to 20/30. In November 1981 it was further noted that the acuity could in fact be improved to the range of 20/25 with the appropriate correction to the right eye. This confirmed that the acuity in the right eye could be satisfactorily corrected and that useful vision in the right eye existed at that time. In November 1984, the corrected visual acuity in the right eye was at least 20/40 which was more than satisfactory, useful vision.

Another trauma to his right eye occurred on November 2, 1986 and since this injury, the prognosis is that of a permanent impairment in the right eye. There is a possibility that this eye may have to be enucleated in the future. Having regard to all the relevant circumstances and after careful assessment of the new medical documentation submitted, the Board directed that the original Order be varied under Section 25 of the Act, and ordered payment to the applicant of \$1,500.00 pain and suffering 7(1)(d).

□ FILE: 922-010173

VARIATION OF ORDER (Section 25) This application was originally heard on January 23, 1985 at which time the applicant was found compensable and awarded \$3,000.00 for pain and suffering though the Board declined to make an award for loss of income on the information then available to it. The Board had reviewed the file and considered new submissions as well as the evidence presented in the Hearing on May 31, 1988. As a consequence the Board authorized this Variation under Section 25(1) of the Act and awarded \$9,000.00 for loss of income and \$500.00 in legal costs.

Commission, ni une indemnité de la Commission ne pourraient compenser. Cependant, la requérante a écrit à la Commission en indiquant qu'elle comprenait parfaitement que ce soutien risquait d'être affecté par une augmentation des versements mensuels, mais après en avoir discuté avec son travailleur social, son médecin et les Services sociaux et communautaires, elle désirait malgré tout poursuivre sa demande. Par conséquent, la Commission a examiné à nouveau les preuves au dossier et a conclu que le traumatisme de l'incident, les blessures subies, les problèmes physiques et le traumatisme émotionnel continus justifiaient qu'elle adjuge le montant mensuel maximal pour la douleur et les souffrances, soit 1 000 \$, sujet à une révision annuelle.

□ DOSSIER : 200-155
MODIFICATION DE DÉCISION
 (Article 25) Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le 11 janvier 1972, la Commission a déclaré le requérant admissible à une indemnisation suite à un acte criminel violent et a accordé une indemnisation pour une blessure à l'œil droit. La Commission a examiné la documentation indiquant que le requérant a beaucoup souffert à cause des effets de la blessure causée par l'agression ayant fait l'objet de la demande initiale. La documentation médicale indiquait que suite à l'extraction de la cataracte de l'œil droit du requérant, en avril 1981, et le drainage de glaucome effectué en juillet 1981, il avait été noté en octobre 1981 que l'acuité de cet œil pourrait être améliorée à 20/30. En novembre 1981, il a été noté que l'acuité pourrait en fait être améliorée à 20/25 avec une correction adéquate.

Ceci confirmait que l'acuité de l'œil droit pouvait être corrigée de façon satisfaisante et qu'une vision utile existait alors de l'œil droit. En novembre 1984, l'acuité visuelle corrigée de l'œil droit était d'au moins 20/40, ce qui excédait une vision utile satisfaisante. L'œil droit a subi un autre traumatisme le 2 novembre 1986 et depuis cette blessure, le pronostic indique un affaiblissement permanent de l'œil droit. Il est possible que cet œil doive être énucléé. Compte tenu de toutes les circonstances pertinentes et après une évaluation minutieuse de la plus récente documentation médicale présentée, la Commission a ordonné la modification de la décision initiale, conformément à l'article 25 de la Loi et a adjugé la somme de 1 500 \$ pour la douleur et les souffrances 7 1) d).

□ DOSSIER : 922-010173
MODIFICATION DE LA DÉCISION
 (Article 25) Cette demande a initialement été entendue le 23 janvier 1985. Le requérant avait alors été déclaré admissible à une indemnisation et avait reçu la somme de 3 000 \$ pour la douleur et les souffrances, mais la Commission avait refusé d'accorder une indemnisation pour la perte de revenu à partir de l'information alors fournie. La Commission a revu le dossier et a tenu compte de la nouvelle documentation et des nouvelles preuves présentées à l'audition du 31 mai 1988. Par conséquent, la Commission a autorisé cette modification aux termes de l'article 25 1) de la Loi et a adjugé la somme de 9 000 \$ pour les pertes de revenu et 500 \$ pour les frais juridiques.

□ DOSSIER : 922-016322

MODIFICATION DE DÉCISION

(Article 25) La requérante, mère

d'un garçon de 16 ans qui a été

assassiné, avait présenté une de-

mande à la Commission pour cer-

tains frais d'enterrement et pour la

douleur et les souffrances entrai-

nées par la mort de son fils. La

Commission avait indemnisé les

frais d'enterrement, mais la re-

quérante n'avait pas prouvé qu'elle

souffrait d'un choc nerveux, ce qui

aurait constitué une blessure aux

termes de la Loi. Cependant,

comme elle a présenté d'autres

preuves documentaires à la Com-

mission depuis cette audition, une

nouvelle étude était justifiée. Après

le meurtre de son fils, la requérante

a eu pour réaction initiale de garder

un contrôle absolu d'elle-même

pour le bien de la famille, mais sa

condition a commencé à se déte-

riorer avec le temps. Environ six

mois après le meurtre, elle a com-

mencé à souffrir de tension post-

traumatique, de dépression, d'accès

de panique et d'agoraphobie. Elle a

été incapable de garder son emploi

et a dû prendre plusieurs mois de

congé. Elle a tenté de retourner au

travail, mais était incapable de

surmonter la tension et les accès

de panique et l'agoraphobie. Sa

condition s'est détériorée au point

où elle était souvent incapable de

sortir seule et a dû arrêter de con-

duire sa voiture. Lorsqu'elle sortait

ou conduisait, elle ressentait des

symptômes de panique avec tachy-

cardie, hyperventilation, étourdis-

sement, faiblesse, transpiration et

un sentiment d'impuissance et

d'engourdissement de ses réactions

générales. Avant le meurtre de son

fil, elle était sociable et travail-

leuse, et avait une personnalité

bien équilibrée. Pour tenter de

remédier à ces problèmes, la

requérante a pris part régulièrement

à des consultations et à de la psy-

chothérapie, en plus de prendre des

médicaments. La Commission a

déclaré la demande admissible

conformément à l'article 5 a) de

la Loi et a adjugé la somme de

10 000 \$ pour la douleur et les souf-

frances 7 1) d).

□ DOSSIER : 200-9165

MODIFICATION DE DÉCISION

(Article 25) À partir des preuves

documentaires. À l'audition initiale

en 1985, la requérante avait obtenu

l'indemnité maximale alors permise

par la loi, soit une indemnité for-

faitaire de 7 500 \$ plus des verse-

ments de 500 \$ par mois, après

avoir été brutalement battue et

poignardée à la gorge. Suite à une

modification de la Loi sur l'indem-

nisation des victimes d'actes cri-

minels, en novembre 1986, le

montant maximal des indemnités a

été augmenté. Par conséquent, la

Commission a modifié la décision

initiale de son propre chef et a fait

passer les versements mensuels à

1 000 \$. Ces versements devaient

être maintenus jusqu'à leur révision

en décembre 1987. En décembre,

l'examen a résulté en une décision

adjudgeant des versements mensuels

de 200 \$, sujets à une révision

annuelle. En juillet 1988, la requé-

rante a sollicité une autre révision

de son dossier et une augmentation

des versements mensuels, pour

que ceux-ci passent de 200 \$ à

1 000 \$. En examinant cette de-

mande, la Commission a indiqué

risquait d'entraîner la perte du

soutien des services sociaux et com-

munitaires. Ce soutien n'était pas

seulement financier, mais consistait

aussi en des services que ni la

Vol avec voies de fait

□ DOSSIER : 922-014111

Cette demande avait été entendue auparavant, mais la Commission avait retenu sa décision en attendant la présentation d'information médicale additionnelle. La requérante, une enseignante âgée de 63 ans, a été agressée et s'est fait voler son sac à main dans l'ascenseur de l'édifice où elle habite. Les assaillants l'ont poussée contre les parois de l'ascenseur, lui ont arraché son sac à main et se sont enfuis. La requérante a pourchassé l'un des assaillants qu'elle a vu entrer dans un appartement, de l'autre côté de la rue. La requérante a déclaré à la Commission qu'elle a dû passer cinq jours au lit à cause des blessures subies durant l'agression. Elle a consulté un médecin plus de trois semaines après l'incident et celui-ci a constaté des contusions au bras gauche, au sein gauche, à la main et au pied droit. Elle était également angoissée et déprimée. La documentation médicale additionnelle n'a pas convaincu la Commission que les autres problèmes médicaux étaient dus à l'agression. Les injections d'hormones et les traitements de chiropraxie n'étant pas considérés comme des traitements nécessaires pour les blessures qu'elles a subies, les reçus pour ces traitements n'ont pas été admis avec la demande d'indemnisation. La Commission a rejeté la déclaration de la requérante voulant qu'elle ait été incapable de retourner au travail en septembre, mais a plutôt établi la période d'incapacité entre le 25 mai (date de l'agression) et la fin de l'année scolaire, en juin. Elle n'a perdu aucun revenu pendant cette période puisqu'elle était en congé de maladie payé. Cependant, la Commission a reconnu que la requérante avait subi des lésions corporelles et avait souffert d'un

traumatisme émotionnel considérable, à cause de l'incident. Les deux assaillants ont été reconnus coupables. L'un a été condamné à 10 mois de prison et l'autre a reçu une sentence avec sursis et deux ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 77,35 \$ pour les frais engagés 7 1) a); 5 000 \$ pour la douleur et les souffrances 7 1) d); 500 \$ pour les honoraires du procureur et 46,56 \$ pour les débours, soit une indemnité totale de 5 623,91 \$.

en indemnisation de la douleur et des souffrances 7 1) d) et 150 \$ pour les honoraires du procureur, soit une indemnité totale de 950 \$.

□ DOSSIER : 922-017123

La requérante, âgée de 74 ans, s'apprêtait à entrer dans une banque quand un individu qui venait d'y commettre un vol, est sorti en courant et l'a projetée au sol. Après l'incident, la requérante a consulté son médecin qui, dans son rapport, a indiqué qu'en plus d'avoir été poussée, la requérante avait été trappée à l'épaule droite par la porte de la banque quand le mal-faiteur en est sorti. La requérante se plaignait d'une douleur atroce dans l'épaule, d'étourdissements, de nausées, de maux de tête, de faiblesse et de malaise. Elle souffrait d'insomnie, est devenue irritable et était incapable de se vêtir elle-même, de faire ses travaux ménagers ou de sortir de la baignoire sans aide. Elle continue à avoir besoin de l'aide de son mari pour ces activités, car elle souffre d'une douleur constante à l'épaule et cette douleur empire avec le mouvement. Son médecin a diagnostiqué une ténosite aiguë et une tension post-traumatique. Le pronostic à long terme est incertain. À l'audition, la requérante a semblé très frêle et a rapporté avoir perdu 20 livres. Elle était auparavant en bonne santé et en mesure de vaquer à ses activités quotidiennes. L'assailant a été reconnu coupable de huit accusations de vol et a été condamné à des peines confondues de 4 ans de prison sous chaque chef d'accusation, plus une année consécutive pour l'usage d'une arme à feu. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 3 500 \$ pour la douleur et les souffrances

□ DOSSIER : 922-011500 Cette demande avait été entendue auparavant, mais la Commission avait retenu sa décision à la demande du requérant, qui voulait présenter de la documentation médicale additionnelle et une liste des frais. Le requérant, un ouvrier dans une usine de disques, âgé de 24 ans, a été étranglé avec une corde, frappé à coups de poing et à coups de pied, attaché et bâilloné, et battu avec une clé de roue par deux hommes. Il a ensuite été laissé sans connaissance sous un pont, sur un ruisseau gelé. Il a repris connaissance et est allé demander de l'aide dans une maison non loin de là. Le requérant a été admis à l'hôpital et a été traité pour de multiples lésions au visage et au cuir chevelu nécessitant environ 80 points de suture, une lésion au bras droit, des contusions aux deux épaules, de l'enflure et des contusions au visage et une douleur générale. Il a fallu deux mois pour que ses blessures guérissent et six mois avant que la douleur ait complètement disparu. Il souffrait de maux de tête constants et d'étourdissement, mais un examen neurologique n'a révélé aucun problème. Son visage est resté cicatrisé et la Commission l'a avisé que les frais de chirurgie plastique seraient couverts par celle-ci, conformément à l'article 25 de la Loi. Le requérant a été incapable de travailler pendant 12 semaines. Sa perte de revenu nette était de 1 642 \$, mais il a reçu des indemnités de 1 179 \$, établissant sa perte nette à 463 \$; la Commission a couvert ce montant. Les assaillants ont été reconnus coupables d'enlèvement et de vol. L'un a été condamné à une peine confondue de trois ans de prison sous chaque chef d'accusation et l'autre a été

condamné à quatre ans plus une peine confondue de deux ans. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 463 \$ pour la perte de revenus (7 1) b); 5 000 \$ pour la douleur (7 1) d); 42,70 \$ pour les autres pertes pécuniaires (7 1) f); 400 \$ pour les honoraires du procureur et 200 \$ pour les débours, soit une indemnité totale de 6 105,70 \$. □ DOSSIER : 922-017780 Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La requérante, âgée de 39 ans, se trouvait dans le bar d'un hôtel, assise en compagnie de son mari et de deux autres femmes. Une dispute a éclaté et l'une des femmes a giflé la requérante. Celle-ci et son mari ont alors quitté cette table et sont allés s'installer dans une autre section de l'établissement. Plus tard dans la soirée, la requérante sortait des toilettes quand elle a été attaquée par les deux femmes. Celle qui l'avait giflée lui a volé son argent. Après leur avoir échappé, la requérante a appelé la police et les deux femmes se sont enfuies. Deux jours plus tard, la requérante a consulté son médecin qui a constaté des contusions sous un oeil, des égratignures sur le nez et des marques de dents sur les avant-bras. Elle souffrait également d'anxiété. Son médecin ne lui a prescrit aucun traitement. Les responsables ont été inculpés de vol avec violence. Les accusations portées contre l'une des femmes ont été rejetées. L'autre a été condamnée à 6 mois de prison plus 2 ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 800 \$

□ DOSSIER : 922-016528

Audition à huis clos. La demande a été présentée par l'ex-conjoint de la victime, suite au meurtre de celle-ci, le 12 mai 1986. Il demandait l'indemnisation de la perte de soutien financier au nom des enfants de la victime et des frais engagés par le requérant et la mère de la victime suite au meurtre. Les frais d'enterrement ont été couverts par les indemnités d'enterrement du R.P.C. et un don généreux de l'employeur de la victime. La Commission a noté qu'aux termes des lettres d'administration datées du 3 novembre 1987, la mère de la victime avait été nommée administratrice de la succession et avait assumé la garde des deux enfants de la victime, un garçon né le 4 janvier 1975 et une fille née le 4 février 1977. D'après la documentation déposée devant la Commission, les revenus mensuels de la victime, au moment de son décès, étaient de 1 050 \$. Après avoir déduit 20 % de cette somme pour l'usage personnel de la victime, et compte tenu des montants du R.P.C. que la mère de celle-ci reçoit pour les enfants et de la rente d'invalidité réduite accordée à la fille, la Commission a conclu que la perte de revenu était de 700 \$ par mois et a adjugé cette somme en versements mensuels à la mère de la victime, pour aussi longtemps que celle-ci aura la garde des enfants. La Commission a préssumé que la défunte aurait pris soin de son fils tant qu'il irait à l'école et de sa fille tant que celle-ci en aurait eu besoin. Une indemnité forfaitaire de 20 000 \$ a été adjugée à la mère de celle-ci pour couvrir la période entre le 12 mai 1986 et le 31 octobre 1988 et les versements mensuels devaient commencer en novembre 1988.

L'indemnisation de divers autres dépenses a également été autorisée. Après avoir été reconnu coupable de meurtre au premier degré, l'assaillant a été condamné à l'emprisonnement à vie, sans possibilité de liberté conditionnelle avant 25 ans. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 212,28 \$ pour les autres pertes pécuniaires 7 1) f); 600 \$ pour les frais juridiques; 56,50 \$ pour les débours et la somme susmentionnée de 20 314 \$ à la mère de la victime, soit une indemnité totale de 21 182,78 \$.

Tentative de meurtre

□ DOSSIER : 922-018887

À l'article 5 a) et a) adjugé la somme de 22 \$ pour les frais engagés 7 1) a); 2 119,29 \$ pour les pertes pécuniaires de la victime 7 1) b); 8 500 \$ pour la douleur et les souffrances 7 1) d) et 30 \$ pour les autres pertes pécuniaires 7 1) f), soit une indemnité totale de 10 671,29 \$.

de celle-ci est entré et a subitement poignardé le requérant. Après l'avoir poignardé à plusieurs reprises, l'assailant s'est enfui des lieux quand il a réalisé que son ex-femme était allée chercher de l'aide. Le requérant a été traité à l'hôpital pour plusieurs blessures de coureau à la tête et à la poitrine. Une laceration de 3,5 cm et une autre de 5 cm ont transpercé le cuir chevelu jusqu'à l'os. Deux entailles ont transpercé la cage thoracique, entraînant l'affaïssissement du poumon gauche et une laceration de la rate. Le requérant souffrait de plusieurs autres lacerations et blessures connexes et était en danger de mort. Le requérant a été placé aux soins intensifs et a requis de multiples transfusions de sang. Les blessures ont été soignées par intervention chirurgicale. Le requérant a obtenu son congé de l'hôpital environ deux semaines après l'incident. Cependant, il a dû s'absenter de son travail pendant 2 1/2 mois. Un médecin a suivi son rétablissement. Le requérant a informé la Commission que son rétablissement n'a été complet que 5 mois après l'incident. Il souffrait de maux de tête, de maux d'estomac et de nervosité. Il avait également des cauchemars qui provoquaient des crampes d'estomac, des maux de tête et des sueurs froides. L'assailant a été reconnu coupable de tentative de meurtre et a été condamné à huit ans de prison. La Commission a déclaré la demande admissible conformément

Homicide involontaire

□ DOSSIER : 922-016675

Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Cette demande a été présentée par la veuve de la victime d'un meurtre. Son mari, un technicien en électricité, était rendu à une fête chez un ami où ils ont bu de la bière et joué aux cartes. Un

intrus est arrivé et s'est mis à se disputer avec les invités. Lorsqu'il a poignardé le beau-frère de la

victime, celui-ci est intervenu et a été mortellement poignardé à l'abdomen. L'assailant a été re-

connu coupable d'homicide et a été condamné à 6 ans de prison. La

requérante, la veuve de la victime, a présenté la documentation à l'appui de la demande d'indemnisation

pour les pertes pécuniaires qu'elle a subies suite au décès de la victime.

Elle a établi qu'elle était une "personne à charge" aux termes de l'article 1 c) de la Loi. Après avoir

examiné les preuves documentaires, y compris les revenus de la victime

immédiatement avant sa mort, les indemnités d'assurance versées

après sa mort, les indemnités du R.P.C. versées avant et après son

décès et les estimations d'intérêts accumulés par la succession de la

victime, la Commission a conclu que la requérante avait subi une

perte pécuniaire de 440 \$ par mois plus la protection R.A.M.O.

auparavant fournie par l'employeur de la victime. La Commission a déclaré la requérante admissible et

a adjugé des versements périodiques à celle-ci, au montant de 470 \$ par mois, sous réserve de révision

annuelle par la Commission. Ces versements étaient rétroactifs à la date de l'incident et continueront

jusqu'en juillet 2019, date à laquelle la victime aurait atteint

l'âge de 65 ans, ou jusqu'à ce que le montant total adjugé atteigne la limite établie par la Loi, soit 250 000 \$ pour les versements périodiques, selon la première de ces éventualités. La Commission a également adjugé la somme de 2 965 \$ pour les frais d'entêtement et 300 \$ pour les honoraires du procureur de la requérante.

□ DOSSIER : 922-018070

Audition à huis clos. La demande a été présentée par la mère au nom de sa fille, née le 6 septembre 1971, qui a été victime d'exploitation sexuelle à maintes reprises par son père, entre septembre 1976 et décembre 1985. Après la révélation des faits, la victime a participé à des sessions de thérapie individuelle et de groupe offertes par les Services à la famille et aux enfants qui lui ont démontré que la situation était loin d'être sans espoir. Elle a le soutien de ses amis et d'autres personnes. La victime a déclaré à la Commission qu'en participant aux activités sportives de son école, elle a pu surmonter ses troubles émotifs. Même si elle se sent encore vulnérable de temps à autre et reste méfiante, elle ne croit pas pour le moment avoir besoin de traitement psychiatrique. Elle a impressionné la Commission par son intelligence et sa franchise, et ce comportement a été à son avantage. La Commission veut l'aider à se remettre de cette expérience et à mener une vie normale. La Commission consent à examiner, conformément à l'article 25, l'indemnisation des coûts ultérieurs de tout traitement psychologique dont elle pourra avoir besoin en conséquence directe de l'exploitation sexuelle dont elle a été victime. L'agresseur a été condamné à 18 mois de prison plus trois ans de probation pour attentat à la pudeur. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a ordonné que la somme de 12 000 \$ soit déposée au crédit de la victime par le comptable de la Cour supérieure de l'Ontario. Cette somme est payable en deux versements de 6 000 \$ plus intérêts au moment des 18^e et 21^e anniversaires de la victime conformément à l'article

36 6) de la Loi sur les fiduciaires. La Commission a également adjugé la somme de 400 \$ pour les frais juridiques et 9 \$ pour les débours, soit une indemnité totale de 12 409 \$.

Des hématomas et des ecchymoses ont été remarqués des deux côtés du front et sur les tempes, de même que des abrasions superficielles à son coude et à son poignet gauches. Bien qu'il se soit plaint d'étourdissement, des radiographies du crâne et des sinus paranasaux n'ont rien décelé. Le requérant a été dûment cité à comparaître au procès du présumé assaillant, mais a fourni une excuse à la dernière minute et ne s'est pas présentée. Lorsqu'une deuxième date de procès a été fixée, il a été impos-sible de trouver le requérant pour lui signifier la citation. La Commission a prévenu le procureur et celui-ci lui a indiqué qu'il avait averti son client des conséquences d'une autre non-comparution. Le requérant ne s'est pas présenté et la Couronne, qui trouvait déjà qu'il n'était aucunement disposé à coopérer, a retiré les accusations portées contre l'assaillant. L'avocat du requérant l'a informé que sa non-comparution en cour compromettrait sa demande d'indemnisation. Après avoir examiné toutes les circonstances pertinentes, la Commission a invoqué les dispositions de l'article 17 (2) et a rejeté la demande d'indemnisation du requérant. Cependant, elle a ordonné le versement de 150 \$ au procureur du requérant pour l'aide qu'il a fournie à la Commission et 40 \$ pour les débours. Elle a ordonné le versement d'une somme de 62 \$ au policier témoin, soit 37 \$ pour le remboursement de ses frais de déplacement et 25 \$ en frais de témoignage. Au total, les coûts étaient de 252 \$.

gardienne ni les enfants n'ont été attaqués. Dans son rapport, la psychiatre a indiqué qu'il était difficile de distinguer entre les dommages psychologiques dus à l'incident et ceux dus aux situations de tension chronique dans cette famille. Elle a diagnostiqué une réaction situationnelle aiguë et a offert des sessions de thérapie en famille. Pour que la Commission puisse établir qu'il y a eu "choc nerveux", il lui faut des preuves psychiatriques d'un trouble mental identifiable qui ait été entraîné par l'incident, avec des symptômes et un comportement n'étant pas considérés normaux pour cette personne particulière dans les circonstances particulières de l'incident. La réaction aiguë du garçon face à cet incident n'excédait pas ce à quoi on pourrait s'attendre. La demande a donc été rejetée.

□ DOSSIER : 922-017243

Le requérant ayant été avisé de l'audition et ne s'étant pas présenté, sous l'autorité de la Loi sur l'exercice des compétences légales, la Commission a étudié la demande à partir des preuves documentaires déposées et du témoignage du policier témoin. Le 1^{er} mai 1986, le requérant, alors âgé de 17 ans, a été impliqué dans une confrontation physique avec le présumé assaillant, qu'il connaissait. Le policier témoin a confirmé la preuve documentaire selon laquelle le requérant avait fait un commentaire dépréciateur à l'endroit de la petite amie du présumé assaillant, ce qui a donné lieu à confrontation. Le requérant a été examiné à l'hôpital, l'après-midi du 1^{er} mai 1986. Le dossier de l'hôpital indique une sensibilité douloureuse au niveau des muscles paracervicaux, des contusions sur les deux joues et derrière l'oreille et une bosse au-dessus de l'œil droit.

recevait une rente d'invalidité partielle de la Commission des accidents du travail pour un syndrome de douleur chronique au dos, à cause d'une blessure subie au travail et d'une maladie de dégénérescence lombaire. Le requérant a attendu une semaine avant de rapporter l'incident à la police et a déposé une dénonciation privée de voies de fait contre le présumé assaillant, seullement lorsque la police l'a informé que le présumé assaillant avait déposé une accusation de voies de fait et de menaces. Durant une comparution en cour, sept mois après l'incident, les deux hommes ont signé une obligation de ne pas troubler la paix publique pendant 12 mois et ont retiré toutes les accusations. Compte tenu de ces faits, notamment le retard à rapporter l'incident à la police, les blessures des deux hommes qui ne coïncidaient pas avec leurs témoignages réciproques et ayant conclu que chacun des deux hommes avait sa large part de responsabilité dans l'incident, la Commission a invoqué l'article 17 (1) et l'article 17 (2) de la Loi et a refusé d'accorder une indemnisation.

□ DOSSIER : 922-018739

La requérante a présenté une demande au nom de son fils qui, à son avis, aurait souffert d'un choc nerveux suite à un incident ayant eu lieu quand il avait six ans. La requérante était à un cours du soir pendant que ses trois fils étaient à la maison avec une gardienne, quand leur père, qu'ils n'avaient pas vu depuis deux ans, s'est introduit par force dans la maison. Il tenait une machette et s'est mis à briser toutes les fenêtres et à fracasser tout ce qu'il voyait. Les enfants et la gardienne se sont enfuis chez un voisin qui a appelé la police. Ni la

entre les deux familles. À une date ultérieure, une altercation a eu lieu entre les deux hommes et le requérant a alors présenté une demande d'indemnisation à la Commission. Cependant, les faits concernant l'incident ne sont pas clairs, car chaque homme a raconté une histoire différente. Selon le requérant, il était en train de peindre la porte de son garage quand le présumé assaillant s'est approché de lui par derrière et l'a frappé entre les omoplates. Le requérant a été poussé vers l'avant et en se retournant pour faire face au présumé assaillant, est tombé contre le coin du garage et s'est blessé à l'épaule droite. Le requérant a essayé de donner des coups de pied au présumé assaillant, mais ne l'a pas touché. La femme du requérant, ayant vu l'échauffourée par la fenêtre de la cuisine, est sortie pour séparer les deux hommes. Le présumé assaillant, quant à lui, a déclaré qu'il était en train de verrouiller la porte arrière quand il a été pris d'assaut par le requérant qui lui a donné des coups de pied sur l'épaule et les parties génitales. Il a déclaré qu'il avait frappé le requérant en légitime défense et que la femme du requérant avait mis fin à la bataille. Le requérant ressentait une douleur à l'épaule droite et a consulté un médecin. Un examen a révélé des contusions à l'épaule droite et une ténosynovite. Ces blessures nécessitaient l'application locale de chaleur, des analgésiques et de la physiothérapie. Le requérant n'a pu travailler pendant 6 ou 8 semaines. Il se rendait à son bureau, mais craignait que la douleur ne nuise à ses capacités de conduire et mette en danger ses clients lorsqu'il les emmenait visiter des maisons. Au moment de l'incident, le requérant

avait parlé au requérant à l'hôpital, le 15 décembre 1986, ce dernier avait déclaré pouvoir identifier la femme, mais pas l'homme et que de toute façon, il les chercherait lui-même. Le requérant a confirmé cette déclaration dans son propre témoignage, indiquant qu'il cherche encore les assaillants de temps à autre. Le policier a préparé deux sessions d'identification de photos, mais le requérant ne s'y est pas présenté. Cependant, il a appelé la police pour rapporter qu'il avait reçu son portefeuille par la poste le 23 décembre 1986. Le requérant s'est absenté du travail jusqu'à la mi-avril. Au total, sa perte de revenu nette équivaut à 1 988,75 \$. Compte tenu de toutes les preuves déposées, la Commission a déclaré qu'en achetant des narcotiques, le requérant avait participé de son plein gré à une activité illégale et dangereuse et avait subi des blessures modérées. La Commission a conclu qu'en suivant les deux étrangers pour acheter des drogues, le requérant avait directement contribué à ses blessures; elle a donc invoqué les dispositions de l'article 17(1). De plus, la Commission a conclu que le requérant avait refusé d'offrir une coopération raisonnable au policier chargé de l'enquête. En invoquant encore une fois les dispositions de l'article 17(2), elle a rejeté la demande.

□ DOSSIER : 922-016627

son ami s'est joint à eux quelques minutes plus tard, la victime est devenue leur cible et a été frappée sur les jambes une demi-douzaine de fois. Il leur a demandé d'arrêter et a continué de lancer la balle contre le mur. Soudain, à environ 19 h, un objet a rebondi sur le mur et l'a frappé dans l'œil droit. La victime a déclaré pendant l'audition qu'il avait présumé qu'il s'agissait d'un trombone, même s'il n'avait vu ni le projectile ni la personne qui l'avait lancé. Au moment de l'incident, il est tombé à genoux pour leur faire comprendre qu'il était blessé, mais les jeunes ont tous nié avoir lancé un trombone dans sa direction. La requérante a emmené son fils au Toronto East General Hospital tôt le lendemain matin lorsqu'il s'est plaint d'une vision embrouillée de l'œil droit. La requérante a prévenu la police le 8 août lorsque la gravité de la blessure a été diagnostiquée. Le policier témoin a déclaré à l'audition qu'au cours d'un entretien antérieur, la victime avait décrit l'incident comme étant un accident et avait été incapable de nommer un coupable. Ce cas avait donc été classifié comme une blessure accidentelle. L'examen à l'hôpital a révélé une blessure perforante de la cornée droite, l'iris adhérent à l'arrière de la cornée et une cataracte en voie de formation. La victime a été admise à l'hôpital et l'on a réparé les dommages cornéens. La convalescence a été sans problème et la victime a pu rentrer chez lui le 12 août. Cependant, le 27 août, la pression dans l'œil avait augmenté à cause de l'évolution de la cataracte et le 28 août, la victime a dû être réadmise à l'hôpital pour subir une ablation du cristallin de l'œil droit. La convalescence a encore une fois été

sans problème. La victime est maintenant aphaque et devra porter une lentille cornéenne pour le reste de ses jours. Ceci limitera entre autres ses possibilités d'emploi. Le rapport de l'ophthalmologiste indique diverses situations qu'il lui faudra éviter et fait état de divers autres problèmes oculaires, dont notamment le décollement de la rétine, qui risquent fort probablement de survenir plus tard. À l'audition, la victime a dit ressentir une douleur de temps à autre à l'œil et ne pouvait supporter la lentille cornéenne que deux jours par semaine. Après avoir examiné attentivement toutes les preuves orales et documentaires, de même que les remarques de l'avocat-conseil de la requérante, la Commission a conclu que les blessures de la victime étaient bel et bien dues à un accident malencontreux et par conséquent n'étaient pas couvertes par l'article 5 a) de la Loi. Elle a donc refusé d'accorder une indemnisation.

□ DOSSIER : 922-020207

Le requérant, un agent immobilier âgé de 61 ans, alléguait avoir été agressé par son voisin. Les deux familles voisines se méprisaient depuis un certain temps et s'étaient disputées plus d'une fois. Avant l'agression en cause devant la Commission, le présumé assaillant avait heurté et endommagé la maison du requérant avec sa voiture en reculant pour sortir de l'étroite entrée commune. La police a été appelée, mais a seulement fourni une déclaration permettant au requérant de présenter une demande d'indemnisation à son assureur. Les deux hommes se sentaient lésés par l'incident et semblaient se blâmer mutuellement pour le malaise général existant

tions de l'article 17 (2) de la Loi.
□ DOSSIER : 922-017274
 Le requérant, un peintre en bâtiment âgé de 34 ans, avait passé l'après-midi du 12 décembre 1986 dans divers bars. Il est allé dans une taverne où il s'est assis à une table et s'est mis à parler avec une inconnue. Il lui a payé des verres et a fini par accepter de lui acheter du haschisch. La femme est allée au bar pour faire les arrangements, puis a quitté la taverne avec l'homme-contact. Pendant qu'ils traversaient un parc, l'homme qui marchait devant eux s'est retourné et a poignardé le requérant. Celui-ci a sorti son propre canif et a poignardé l'assailant sous le bras pendant la bataille. L'homme et la femme lui ont volé son argent et son portefeuille. Le requérant a tenté de les poursuivre, mais en a été incapable, se sentant trop faible. Des policiers dans une autopatrouille ont vu le requérant et l'ont emmené à l'hôpital. Comme le médecin était incapable d'examiner les blessures du requérant à cause de son agitation, on l'a amené à la salle d'opération pour procéder à une laparotomie. Le requérant avait reçu deux coups de couteau dans la partie inférieure gauche de l'estomac et un autre du côté droit au niveau des reins, mais aucune de ces entailles n'avait pénétré la cavité péritonéale. Il est sorti de l'hôpital le 17 décembre 1986. Le médecin qui l'a examiné le 9 janvier 1987 a rapporté qu'il se rétablissait très bien, sans infection, mais le requérant a indiqué dans sa déposition que l'incision s'était infectée, 2 jours après sa sortie de l'hôpital et qu'il avait dû retourner à l'hôpital chaque jour pour faire mettre une compresse sur son incision. Le policier chargé de l'enquête a témoigné que lorsqu'il

sous l'autorité de la Loi sur l'exercice des compétences légales, la Commission a étudié la demande à partir des preuves documentaires déposées et du témoignage du policier témoin. Le requérant et des amis buvaient de la bière près d'un ruisseau quand une dispute a éclaté entre eux. Le requérant a soudainement été frappé à l'oeil gauche avec une bouteille de bière et s'est écroulé. Il a aussi été coupé au poignet avec une bouteille de bière. Le requérant a été admis à l'hôpital et traité pour une laceration à l'avant-bras gauche, ayant touché le tendon et les nerfs et pour des contusions et une enflure de la joue gauche. On a dû opérer pour réparer le dommage causé au tendon et au nerf; le requérant a été hospitalisé pendant 5 jours. Il a déclaré qu'il n'a pas retrouvé l'usage complet de la main gauche, mais son dossier ne contenait aucun pronostic concernant ses blessures. Le policier chargé de l'enquête, qui était présent à l'audition, a témoigné à l'effet que le requérant avait rapporté l'agression à la police et avait déposé une dénonciation privée devant un juge de paix. Lorsque la cause a paru devant le tribunal, le requérant était absent et l'accusation portée contre le présumé assaillant a été retirée. Le requérant avait été évincé de son appartement avant le procès et n'avait pas communiqué avec la police. Le policier chargé de l'enquête s'était rendu au domicile du requérant à quatre reprises et avait laissé des messages, mais avait été incapable de communiquer avec lui. La Commission a conclu, en répondant à la preuve, que le requérant avait refusé d'accorder une collaboration raisonnable à la police. Elle a donc rejeté cette demande en invoquant les disposi-

1 h 15 du matin quand elle avait été attaquée par sa soeur qui lui avait tiré les cheveux, l'avait légèrement coupée au-dessus de l'oeil droit, l'avait frappée à la poitrine, où elle avait récemment subi une mastectomie, et avait provoqué l'ouverture d'une incision au cou provenant d'une autre opération récente. La soeur de la requérante, qui a assisté à l'audition, a déclaré qu'elle et sa soeur ne s'entendaient pas. Elle a rapporté qu'elle et deux amies avaient passé la soirée à jouer au bingo et s'étaient ensuite rendues dans une taverne, où elles avaient rencontré le fils de la requérante. Celui-ci s'est disputé avec l'une des amies de sa tante. Les trois femmes ont alors quitté la taverne et en rentrant chez elles ont rencontré la requérante. La requérante a insulté sa soeur et quand celle-ci lui a rendu la pareille, la requérante a frappé sa soeur à la poitrine avec son sac à main. Cette dernière a alors giflé la requérante. Le policier chargé de l'enquête était d'avis qu'il s'agissait d'un incident relié à une querelle de famille de longue date. La requérante a déposé une dénonciation privée contre sa soeur qui a répliqué avec ses propres accusations. Quand la cause a été présentée devant le tribunal, les deux femmes ont accepté une obligation de ne pas troubler la paix publique. Après avoir examiné les preuves documentaires et le témoignage de l'auteur présumée de l'agression et du policier témoin, la Commission a conclu qu'en répondant à la preuve, la requérante n'avait pas été victime d'un acte criminel violent et et a refusé d'accorder une indemnisation.
□ DOSSIER : 922-014112
 Le requérant ayant été avisé de l'audition et ne s'étant pas présentée,

□ DOSSIER : 922-018077
Le requérant ayant été avisé de l'audition et ne s'étant pas présenté, sous l'autorité de la Loi sur l'exercice des compétences légales, la Commission a étudié la demande à partir seulement des preuves documentaires déposées. Le requérant, âgé de 30 ans, a été frappé au visage par un présumé assaillant, le 21 septembre 1986. Sa demande indique qu'il avait été frappé sur le nez et aux yeux en se rendant à un restaurant. Selon le rapport de l'enquêteur de la Commission, à l'hôpital, le requérant a dit au policier chargé de l'enquête qu'il avait discuté de politique avec le présumé assaillant pendant qu'ils buvaient et jouaient aux cartes dans un restaurant. Un désaccord s'était transformé en échauffourée et les deux hommes avaient été expulsés du restaurant. Le présumé assaillant avait frappé le requérant au visage à deux reprises avant de s'enfuir en voiture. Une semaine et demie plus tard, le policier chargé de l'enquête a parlé au présumé assaillant. Celui-ci a indiqué que la dispute portait sur le paiement du pare-brise de sa voiture, qui, selon lui, avait été brisé par le requérant. Il a également déclaré que le requérant l'avait suivi aux toilettes en continuant la dispute et l'avait frappé sur la bouche, lui fendant la lèvre. Le présumé assaillant a admis qu'il avait alors frappé le requérant à la figure. La police a refusé de porter des accusations à cause des déclarations contradictoires et de l'absence de témoins neutres. Le requérant et le présumé assaillant ont été informés des procédures de dénonciation privée. Aucune accusation n'a été déposée. La Commission a été incapable de déterminer si, en prépondérance de la preuve, le requérant avait été

blesse dans les circonstances qu'il a le présumé assaillant. Puisque la Commission a été incapable d'établir que le comportement du requérant n'avait pas été la cause directe de ses blessures, sa demande a été rejetée.
□ DOSSIER : 922-017684
Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, âgé de 27 ans et sans emploi, a rapporté avoir reçu un coup de pied provenant de l'arrière, pendant qu'il se trouvait dans un escalier roulant, dans une station de métro. Un assaillant inconnu lui aurait donné un coup de pied à l'arrière de la jambe gauche et l'aurait ensuite poussé au bas de l'escalier roulant. Les dossiers à l'hôpital indiquent que le requérant s'est rendu au service d'urgence, qu'il était intoxiqué et était tombé au bas de l'escalier d'une station de métro. On a diagnostiqué une contusion à l'avant-bras droit et une laceration au genou gauche, et il a pu rentrer chez lui. Le présumé assaillant n'a pas été appréhendé. Après avoir considéré la déposition, la Commission a rejeté la demande, en se fondant sur la preuve médicale qu'une indication une chute plutôt qu'une agression.
□ DOSSIER : 922-017210
La requérante ayant été avisée de l'audition et ne s'étant pas présentée, à deux reprises sous l'autorité de la Loi sur l'exercice des compétences légales, la Commission a étudié la demande à partir des preuves documentaires déposées et du témoignage des témoins et du présumé assaillant. Dans la demande déposée devant la Commission, la requérante avait déclaré qu'elle traversait la rue à environ

Utilisation dangereuse d'une arme à feu

□ DOSSIER : 200-8102

La requérant, âgé de 28 ans et conducteur pour un service de messagerie, a été blessé par une balle à la tête après la décharge accidentelle d'un fusil. Pendant une conversation avec des amis, ceux-ci ont parlé d'un fusil qu'ils avaient en leur possession. Ils lui ont remis les clés de leur appartement pour qu'il puisse y passer la nuit et voir le fusil. Il est allé à l'appartement, a regardé le fusil et s'est endormi sur le divan. Un peu plus tard, le requérant a été réveillé par le retour d'une amie. Celle-ci a pris le fusil et voulait en démontrer les caractéristiques, quand le fusil s'est déchargé et a blessé le requérant. L'amie a immédiatement appelé la police et l'ambulance. Le requérant a subi une blessure s'étendant de la joue droite à la naissance des cheveux, derrière l'oreille droite. La partie inférieure de l'oreille avait été arrachée et le conduit auditif avait été détruit. Il a également subi une fracture du maxillaire inférieur. Une greffe de nerf a été prélevée de la jambe droite pour réparer le nerf facial. Des greffes de peau ont été prélevées des cuisses et utilisées pour le visage et le cou. Le requérant est resté complètement sourd de l'oreille droite; il était partiellement sourd de l'oreille gauche, avant la blessure. On lui a remis une prothèse auditive pour l'oreille gauche avant qu'il ne sorte de l'hôpital. Par ailleurs, une paralysie partielle du côté droit du visage, affectait la joue, le front et la lèvre supérieure. À l'audition, le requérant a déclaré qu'il a fallu entre 12 et 18 mois pour que les cicatrices guérissent et qu'il sent encore un engourdissement du côté droit. La responsable a été accusée d'usage dangereux d'une arme à feu;

La cause a été rejetée en cour. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a accordé une indemnisation de 277 \$ pour la prothèse auditive 7 1) a); 1 102 \$ pour les pertes de revenus 7 1) b); 8 000 \$ pour la douleur et les souffrances 7 1) d); et 99,50 \$ pour les frais engagés pour se rendre à l'audition, soit une indemnité totale de 9 478,50 \$.

Incendie criminel

□ DOSSIER : 922-015462

Audition à huis clos. Le requérant, un homme de 25 ans, a sauté du troisième étage d'un appartement pour échapper à un incendie, à environ 3 h du matin, le 15 avril 1985. À l'audition, deux policiers ont témoigné qu'il s'agissait d'un incendie criminel. Le requérant a subi un certain nombre de fractures en sautant. Son pied droit a été mis dans un plâtre pendant trois mois et a guéri sans restriction de mouvement. Une fracture de la cheville a requis une deuxième opération pour la fusionner. Cette fracture a nécessité un plâtre pendant 4 mois. La cheville reste très sensible au toucher. Le requérant devrait porter une armature orthopédique sur cette jambe pour l'aider à marcher, mais ne la portait pas au moment de l'audition et a informé la Commission qu'il ne portait pas l'armature pendant l'été. Une fracture par tassement de la vertèbre L2 a été guérie par traitement conservateur, mais le requérant se plaint de maux de dos occasionnels. Le requérant a présenté une demande d'indemnisation pour perte de revenu non précisée. Depuis son arrivée au Canada en 1980, le requérant a travaillé en grande partie à temps partiel; il a été sans emploi à différents moments. Deux semaines avant l'incident, il avait commencé à travailler à plein temps en tant que livreur pour un restaurant. Au début de 1988, le requérant a recommencé à travailler comme livreur pour un autre restaurant. Après un examen attentif des preuves médicales et des antécédents de travail du requérant, la Commission a adjugé la somme de 5 000 \$ en indemnisation de la perte de revenus due à l'incapacité de travailler pendant une période établie à un an.

□ DOSSIER : 922-018737

Audition à huis clos. Avec l'auteur de l'infraction a été inculpé sous divers chefs d'accusation d'incendie criminel et a reçu une sentence avec sursis plus 3 ans de probation avec traitement psychiatrique. Ce traitement se poursuivait toujours au moment de l'audition. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 5 000 \$ pour les pertes pécuniaires de la victime (7 1) b); 8 000 \$ pour la douleur et les souffrances (7 1) d); 450 \$ pour les frais juridiques et 331 \$ en débours, soit une indemnité totale de 13 781 \$. □ DOSSIER : 922-018737

Audition à huis clos. Avec le pharmacien. La demande portait sur l'indemnisation des frais d'enterrement de 3 751 \$ et la perte de revenus de la victime pour la période entre l'incident et son décès. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 2 700 \$ (7 1) a), le maximum alloué par la Commission pour des frais d'enterrement et la somme de 150 \$ pour les honoraires du procureur, soit une indemnité totale de 2 850 \$. La Commission n'a adjugé aucun montant pour la perte de revenus de la victime, car une telle demande n'est plus valable après le décès de celle-ci. Au moment de l'audition, cet incident faisait l'objet d'une poursuite en justice.

Voies de fait contre un agent de la paix

□ DOSSIER : 922-020098

La Commission a déclaré la dé-
mande admissible conformément à
l'article 5 a) de la Loi et a adjugé
la somme de 47 \$ pour les frais
engagés 7 1) a); 7 000 \$ pour la
douleur et les souffrances 7 1) d);
et 40 \$ pour les autres pertes
pécuniaires 7 1) f), soit une indem-
nité totale de 7 087 \$.

Le requérant, un agent des services
correctionnels âgé de 35 ans, qui
avait découvert de la bière de con-
fection maison dans la cellule d'un
détenu, l'a convoqué avec un autre
détenu au bureau du superviseur
pour un entretien. L'un des dé-
tenus s'est attaqué au requérant et
a déclenché une bataille générale
impliquant un grand nombre de
détenus. Le requérant a alors reçu
des coups au visage, à la tête et au
corps. Il a pu s'échapper et se met-
tre en sûreté avant que la bataille
ne se transforme en émeute. Après
l'agression, le requérant souffrait de
contusions, d'abrasions, d'enflure
et de douleur au cou, ainsi que de
raideur dans un doigt de la main
droite. Il a également été blessé à
l'oeil gauche; on a diagnostiqué
une fracture à projection de l'orbite
qui lui a causé un certain défigure-
ment, un engourdissement perma-
nent de la paupière inférieure
gauche et de la joue, et des dom-
mages permanents au nerf optique
gauche. La vision de cet oeil
"vacille" et il a de la difficulté à
conduire la nuit. Le requérant
reçoit actuellement une rente
d'invalidité partielle de la Commis-
sion des accidents du travail. Le
requérant a également souffert de
tension post-traumatique, entrai-
nant de l'insomnie, des cauchemars
et de l'anxiété face au travail.
Après l'incident, il a senti le besoin
d'être muté à un poste comportant
moins de tension, dans une autre
institution. Il a déclaré avoir subi
une perte de revenu d'heures
supplémentaires, mais n'a pas pu
fournir de preuves documentaires à
l'appui. Les assaillants ont été
reconnus coupables de voies de fait
contre un agent de la paix et ont
été condamnés à une peine con-
sécutive de 12 mois de prison.

des fractures des os du nez. Il a également constaté que deux plombages avaient été brisés pendant l'incident. Le requérant était complètement rétabli après 6 ou 7 semaines et il ne souffre actuellement d'aucune séquelle due aux blessures subies. L'assailant a été inculpé de voies de fait contre un agent de la paix, d'évasion, d'entrave à la police et de possession de narcotiques. Il a été reconnu coupable sous trois chefs d'accusation et a été condamné à une peine confondue de quatre mois de prison. La Commission a déclaré la demande admissible conformément à l'article 5 b) de la Loi et a adjugé la somme de 1 000 \$ pour la douleur et les souffrances 7 1) d); 350 \$ pour les honoraires du procureur et 290 \$ pour les débours, soit une indemnité totale de 1 640 \$.

remis à la Commission, le requérant indiquait qu'il ressentait une douleur considérable jusqu'au moment de l'opération et que la région de l'incision est toujours sensible. Les assaillants ont été reconnus coupables d'ivresse dans un lieu public et ont reçu une amende de 15 \$ chacun. Même si ni le médecin, ni le chirurgien ne pouvaient confirmer un lien de cause à effet entre l'incident et la blessure, la Commission a tenu compte du fait qu'aucune hernie n'était présente lors de l'examen médical du 5 juin et que la Commission des accidents du travail avait accepté la blessure comme étant reliée au travail et avait accordé une indemnisation complète. La Commission a donc conclu, qu'en prépondérance de la preuve, la demande était admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 600 \$ pour la douleur et les souffrances (71 d); et 57,50 \$ pour le coût des rapports médicaux (71 f), soit une indemnité totale de 657,50 \$.

□ DOSSIER : 922-017671

Le requérant, un policier âgé de 30 ans, a été blessé pendant qu'il effectuait une patrouille routinière. À environ 20 h, lui et son partenaire ont observé deux hommes qui fumaient de la marijuana dans un véhicule. Le requérant a entrepris l'arrestation du contrevenant pour possession d'un narcotique et pendant qu'il le fouillait, a reçu une poussée qui lui a fait perdre l'équilibre. L'assaillant s'est enfilé en courant, poursuivi par le requérant. Avant que le requérant et son partenaire n'aient pu maîtriser l'assaillant, celui-ci a frappé le requérant à deux mains. À l'hôpital, un examen a révélé que le requérant avait deux doigts foulés et le nez enflé. Le lendemain, son médecin a diagnostiqué

le requérant a arrêté un individu et a essayé de le remettre sur ses pieds. L'assaillant a refusé et s'est débattu; le requérant a réussi à l'amener jusqu'à la voiture de police. Le requérant est alors retourné pour arrêter un deuxième individu et en se penchant a ressenti une douleur vive dans la région de l'aîne. La douleur s'est rapidement dissipée et les deux policiers ont escorté trois prisonniers jusqu'aux cellules du poste de police. Le requérant a rempli ses fonctions pour la journée et est rentré chez lui pour se préparer à partir en vacances le lendemain. Malgré une enflure évidente dans la région de l'aîne, il est parti en vacances pendant trois semaines, tel que prévu, et n'a présenté aucun rapport médical ou d'incident à son superviseur. Pendant ses vacances, la douleur persistait dans l'aîne et empirait lorsqu'il marchait. À son retour au travail, il a consulté son médecin et a rapporté la situation à son superviseur. Une lettre dans son dossier, provenant de son médecin et adressée à la Commission des accidents du travail, fait état qu'il n'y avait aucune note dans son dossier indiquant que la blessure du requérant, une hernie inguinale, était une blessure liée au travail. Cependant, le médecin a également avisé la Commission qu'il avait effectué un examen complet du requérant le 5 juin 1986 et n'avait alors repéré aucun signe d'une hernie. Il a déclaré que la hernie aurait pu être causée par l'échauffourée, mais ne pouvait ni l'attester, ni le réfuter. Le requérant a été opéré pour la hernie et a réintégré ses fonctions de policier deux mois plus tard. La Commission des accidents du travail a indemnisé ses pertes de salaire. Dans un questionnaire

pendant que le requérant préparait la deuxième phase du test. Lorsque l'homme a persisté à essayer de sortir pour obtenir des cigarettes de son frère, le requérant lui a rappelé qu'il lui fallait fournir le second spécimen, puis lui a retenu les poignets pour l'empêcher de sortir. L'homme s'est débattu et a frappé le requérant du côté gauche de la bouche. Un rapport médical a indiqué que le requérant a subi une laceration de la lèvre et l'ébrèchement des dents nos 2 et 3, du côté supérieur gauche. Le dentiste a pris des radiographies et a discuté des complications possibles, mais n'a recommandé aucun traitement immédiat. Au cours d'une visite au mois d'octobre, le dentiste a informé le requérant qu'il n'y avait pas de dommages permanents. Le requérant a rapporté qu'il avait fallu environ deux semaines pour que la douleur s'apaise. Par ailleurs, il a déclaré que l'incident avait affecté son attitude face au public et qu'il se sentait plus méfiant dans ses rapports avec celui-ci. L'assaillant a été condamné à 16 jours de prison pour voies de fait contre un policier. La Commission a déclaré la demande admissible conformément à l'article 5 b) et a adjugé la somme de 250 \$ pour la douleur et les souffrances (71 d).

□ DOSSIER : 922-017220

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, un policier âgé de 31 ans, a été blessé pendant une échauffourée alors qu'il était de service. À environ 11 h 45, le 8 août 1986, lui et un autre policier sont allés enquêter sur une situation où plusieurs hommes intoxiqués étaient étendus sur le trottoir au coin d'une rue et importunaient les piétons. À son arrivée,

Voies de fait contre un agent de police

□ DOSSIER : 922-017370

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, un agent de police âgé de 31 ans, a été agressé le 14 décembre 1985 lorsque lui et un autre policier se sont rendus à une résidence à environ 20 h 40. Un homme menaçait de se suicider et avait tenté de prendre une surdose. Les policiers l'ont informé qu'ils l'arrêtaient en invoquant la Loi sur la santé mentale et allaient l'amener à l'hôpital. L'homme s'est mis un couteau de chasse à la gorge et a répliqué aux policiers qu'il faudrait qu'ils lui tirent dessus. Après une brève conversation, l'homme a lâché prise du couteau et le requérant a essayé de le lui enlever. L'homme s'est violemment débattu et le requérant a reçu une laceration du côté gauche et un coup sur la main droite. Il a fallu 12 points de suture pour fermer la laceration. Le requérant a pu retourner au travail après 5 semaines, mais il ressent un engourdissement considérable de l'index. Son médecin a rapporté qu'il faut environ un an pour que ce genre de blessure guérisse. Le requérant ne retrouvera pas toute la sensation, mais il devrait y avoir une amélioration considérable. L'assailant a été condamné à 2 ans de probation après avoir été reconnu coupable de voies de fait avec une arme. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 300 \$ pour les pertes pécuniaires de la victime (7 1) b) et 2 500 \$ pour la douleur et les souffrances (7 1) d), soit une indemnité totale de 2 800 \$.

□ DOSSIER : 922-020145

Le requérant est un agent de police

□ DOSSIER : 922-018704

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le 23 août 1987, peu après minuit, le requérant, un agent de police, administrerait l'alcootest à un conducteur. Celui-ci ayant ex-cédé la limite permise, on l'a avisé qu'il était sous arrêt. Le conducteur est devenu tendu et a essayé d'échapper aux policiers. Il s'est débattu et il a fallu l'intervention de plusieurs agents pour le maîtriser. Ils ont dû lui mettre des menottes et des entraves pour l'amener au poste de police. Pendant l'affrontement, le requérant a subi une entaille au-dessus de l'oeil droit et des lacerations superficielles au dos de la main droite. Il a eu des maux de tête aigus, diagnostiqués comme étant post-traumatiques, et ceux-ci ont continué pendant plusieurs mois. Le requérant a ressenti considérablement d'anxiété suite à l'agression et croit avoir besoin de consultations ultérieures. La Commission l'a informé que conformément à l'article 25 de la Loi, elle considérerait l'indemnisation du coût des consultations ou de la thérapie ultérieures. L'assailant a été reconnu coupable de voies de fait contre un agent de police et a été condamné à 3 ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 235 \$ pour les pertes de service et de temps en cour (7 1) b); 1 500 \$ pour la douleur et les souffrances (7 1) d); 350 \$ pour les honoraires du procureur et 200 \$ pour les débours, soit une indemnité totale de 2 285 \$.

□ DOSSIER : 922-018704

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le 23 août 1987, peu après minuit, le requérant, un agent de police, administrerait l'alcootest à un homme lorsque celui-ci a tenté de se lever et de quitter la pièce

des périodes de grande tristesse et de tension. Elle craint énormément toutes les personnes de sexe masculin. L'agresseur a été reconnu coupable d'agression sexuelle et condamné à 18 mois de prison plus 3 ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 15 000 \$ pour la douleur et les souffrances 7 1 d), payable au comptable de la Cour suprême de l'Ontario, conformément à l'article 36 6) de la Loi sur les fiduciaires. Cet argent doit être investi au profit de la victime et gardé en fiducie jusqu'à ce qu'elle atteigne l'âge de 18 ans. La Commission a aussi avisé la victime des dispositions de l'article 25, prévoyant l'indemnisation des frais de consultation dont elle pourra avoir besoin ultérieurement.

La Société d'aide à l'enfance aura 17 ans. La Société d'aide à l'enfance devra alors fournir à la Commission une évaluation à jour de la victime, indiquant ses projets d'avenir et tous besoins financiers ou traitement thérapeutique requis. La mère de la victime a été reconnue coupable de voies de fait sous trois chefs d'accusation et son compagnon a été reconnu coupable de voies de fait des plus graves sous trois chefs d'accusation. La mère a été condamnée à 4 1/2 ans de prison et son compagnon, à 6 ans. Un mineur a été condamné à trois ans dans un centre de détention. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 12 500 \$, payable au comptable de la Cour suprême de l'Ontario, conformément à l'article 36 6) de la Loi sur les fiduciaires, à placer au crédit de la victime et à garder en fiducie jusqu'à ce que celle-ci atteigne l'âge de 21 ans.

□ DOSSIER : 922-019241

Audition à huis clos. Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Cette demande a été présentée par la Société d'aide à l'enfance, au nom d'une fillette qui a été victime d'agressions sexuelles quotidiennes entre l'âge de 5 ans et de 12 ans. L'agresseur était son grand-oncle qui était devenu son tuteur après la désertion de la mère et le suicide du père. Des rapports médicaux indiquent que la victime est intelligente et perspicace, mais que son développement semble s'être arrêté à cause des situations vécues. Elle a été gravement marquée et son rétablissement sera lent et très difficile d'entretenir des relations proches et elle connaît

avait passé beaucoup de temps avec les enfants, ont particulièrement consterné la Commission. Il a fourni des détails graphiques sur la gravité et l'intensité des mauvais traitements physiques, ainsi que de la torture et de l'exploitation sexuelle infligées aux trois enfants, depuis leur bas âge. Il a rapporté que les enfants subissaient jusqu'à 15 différents actes de torture ou de mauvais traitements, sept jours par semaine. Les enfants, qui ont été placés sous tutelle en juillet 1984, ont tous été désignés pupilles de la Couronne en janvier 1986. Ils vivent maintenant ensemble dans une famille d'accueil située dans une nouvelle communauté et fréquentent une nouvelle école. Toutes les personnes responsables du soin des enfants sont conscientes du besoin de thérapie à long terme; les mauvais traitements ont été tellement intenses qu'il faudra une thérapie extrêmement spécialisée. Les enfants n'ont pas encore reçu une telle thérapie. La Commission était d'avis qu'il était encore trop tôt pour évaluer les répercussions de la douleur et des souffrances infligées aux enfants ou pour fournir un pronostic sur leur avenir. Tous les frais d'entretien et de traitement thérapeutique des enfants sont assumés par la S.A.E. jusqu'à l'âge de 18 ans. La Commission aimerait aider à défrayer les coûts imprévus d'entretien et de thérapie après cet âge. La Commission a ordonné le versement immédiat de ce qu'elle considère n'être qu'une partie du montant de l'indemnité qui sera conservée pour la victime dans un compte à intérêt, jusqu'à ce que l'enfant atteigne l'âge de 21 ans, en 1999. Cependant, elle a exprimé le désir d'offrir d'autres fonds, en invoquant l'article 25, au cours de la seconde

□ DOSSIER : 922-014895
Audition à huis clos. Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La demande a été présentée par l'Office du Tuteur public, mais à l'atteinte de l'âge de majorité, la victime est devenue la requérante. La requérante a été victime d'exploitation sexuelle de la part de son beau-père pendant une période d'un an et demi. Elle était agressée environ une fois par semaine; elle est devenue enceinte suite à ces agressions sexuelles et a eu un avortement. Malgré les menaces de son beau-père, elle a fini par révéler l'exploitation sexuelle à la police, qui a confié la victime aux soins d'un parent et a transmis le cas à une société d'aide à l'enfance. Des conseillers de la société l'ont ensuite placée dans un foyer nourricier. Après avoir divulgué l'exploitation sexuelle, la requérante a participé à des sessions de consultation. Elle se sentait marquée pour la vie, se culpabilisait d'avoir laissé durer l'exploitation sexuelle et de l'avoir dénoncée, avait perdu son amour-propre. Par ailleurs, elle a souffert de n'avoir aucun soutien parental suite à l'incident et en particulier d'être rejetée par sa mère qui la tient responsable pour la rupture de son mariage avec l'agresseur et refuse de croire que l'exploitation sexuelle a eu lieu. La requérante a grandement bénéficié de sa participation à un groupe de soutien de secours qui lui a permis de partager ses sentiments avec d'autres filles du groupe. Elle a aussi bénéficié de sa participation à un groupe spécial pour filles, organisé par la société d'aide à l'enfance et de consultations personnelles. La requérante a indiqué à la Commission que ses

relations avec les hommes ont été affectées par l'exploitation sexuelle dont elle a été victime. Elle a également mentionné qu'elle a abandonné l'école et a eu un enfant hors mariage, à l'âge de 19 ans, afin de tromper son isolément et son ennui. L'agresseur a été inculpé d'agression sexuelle, a plaidé coupable et a été condamné à 4 ans de prison. La Commission a déclaré la demande admissible, conformément à l'article 5 a) de la Loi et a adjugé la somme de 15 000 \$ pour la douleur et les souffrances (7 1) d). Ce montant est payable à la requérante en trois versements égaux sur une période de trois ans. La Commission a aussi adjugé la somme de 250 \$ pour les honoraires du procureur, soit une indemnité totale de 15 250 \$. Étant donné que la requérante peut avoir besoin de consultations additionnelles, la Commission l'a avisée que, conformément aux dispositions de l'article 25, ces frais pourraient être considérés pour indemnisation, à condition que son thérapeute fasse état du traitement proposé et des frais s'y rattachant et fournisse un énoncé indiquant que le besoin de consultation est relié à l'exploitation sexuelle susmentionnée.

□ DOSSIER : 922-016018
Audition à huis clos. La demande a été présentée par une société d'aide à l'enfance, au nom d'un garçon né le 27 décembre 1978, qui a été maltraité depuis sa naissance. Les mauvais traitements, qui ont été révélés en juillet 1984, lorsque la victime avait cinq ans, mettaient aussi en cause ses deux soeurs (dossiers 922-016016 et 922-016017). La Commission a entendu des témoignages détaillés du policier chargé de l'enquête et de plusieurs travailleurs sociaux de la S.A.E. Les témoignages du policier, qui

□ DOSSIER : 922-018489

Audition à huis clos. Le 20 mai 1987, la requérante, maintenant âgée de 34 ans, a été prise en otage pendant qu'elle était de service dans une institution. Elle a été détenue pendant cinq heures et baïllonnée pendant un certain temps. L'agresseur lui tenait un couteau sous la gorge et menaçait constamment de la tuer. La requérante a été sexuellement agressée. Un négociateur a fini par s'introduire dans la pièce et la victime a été relâchée. Le 23 juillet 1987, un médecin de l'Institut de psychiatrie a trouvé que la requérante souffrait de graves troubles émotifs, était tendue, anxieuse et craintive. Elle avait constamment peur de sortir, se sentait dépressive et souffrait d'insomnie et d'une perte d'appétit. Selon le diagnostic du médecin, la requérante souffrait d'une perturbation réactionnelle d'une tension extrême, avec une phobie marquée et une forte tendance à la dépression. À l'aide de tranquillisants et de sessions de thérapie deux fois par semaine, la requérante a commencé à surmonter lentement et graduellement son anxiété. La requérante est retournée au travail à temps partiel à la fin du mois d'octobre 1987, mais a continué à prendre des médicaments pour apaiser son anxiété et l'aider à dormir. Dans son rapport du 9 février 1988, le médecin indiquait qu'il était difficile de rendre un pronostic dans un tel cas. La requérante a déménagé plusieurs fois pour s'éloigner de l'endroit de l'agression. Elle suit une thérapie mensuelle et prend quotidiennement des tranquillisants. Elle a fait preuve de courage pour surmonter cette expérience traumatisante et est retournée au travail, mais il semble qu'elle soit encore loin

à également fouillé dans tous les effets personnels de la victime. À l'hôpital, un examen a révélé que la victime avait subi des lésions aux cuisses, au bras gauche et au poignet. Elle était aussi considérablement traumatisée. Selon les rapports du psychiatre, après l'agression, la victime a souffert de crises de panique, s'est mise à craindre son entourage et à s'en méfier, a eu des accès de rage contre son agresseur, et a souffert d'anxiété et de dépression. Dans le but d'apaiser ces souffrances, la requérante a déménagé et a changé d'emploi. L'agresseur n'a pas été appréhendé. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 18 000 \$ pour la douleur et les souffrances 7 1) d), et la somme de 30 \$ pour couvrir les frais de transport engagés pour assister à l'audition. La Commission a également adjugé la somme de 1 250 \$ au procureur de la requérante pour couvrir ses frais de consultation, 1 770,10 \$ pour les autres débours et 400 \$ pour les frais juridiques, soit une indemnité totale de 21 450,10 \$. La Commission a avisé la requérante qu'advenant qu'elle décide d'avoir d'autres sessions de consultation, tel que recommandé par le psychiatre, elle pourrait, conformément aux dispositions de l'article 25, demander l'indemnisation de ces coûts, moyennant la présentation du plan de traitement proposé et des coûts du thérapeute ou du psychiatre. La Commission a aussi avisé la requérante que tout montant adjugé à une date ultérieure tiendrait compte des montants susmentionnés, étant donné que le total des indemnités forfaitaires ne peut dépasser 25 000 \$, conformément à la Loi.

d'être complètement rétablie. L'agresseur, qui avait déjà été classé comme un délinquant dangereux, a plaidé coupable aux accusations de prise d'otage, d'agression sexuelle avec une arme et de séquestration. Il a été condamné à l'emprisonnement à vie plus diverses peines confondues. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 18 000 \$ pour la douleur et les souffrances 7 1) d) et la somme de 83,50 \$ pour les pertes pécuniaires 7 1) f), soit une indemnité totale de 18 083,50 \$. □ DOSSIER : 922-012067

MODIFICATION DE DÉCISION (Article 25) À partir des preuves documentaires. À une audition tenue en 1985, la Commission avait déclaré la requérante, âgée de 80 ans, admissible à une indemnisation pour la douleur et les souffrances, les débours et les frais d'entretien suite à l'agression sexuelle dont elle avait été victime dans son appartement. Après l'agression, elle a souffert de délire paranoïde et d'hallucinations et a dû passer six mois dans un hôpital psychiatrique. Elle était incapable de vivre seule et vit maintenant dans une maison de repos. La Commission avait initialement adjugé la somme mensuelle de 188 \$ pour les frais d'entretien. Deux modifications subséquentes ont permis de faire passer les versements périodiques à 289 \$ par mois, puis à 456 \$ par mois. La modification actuelle reflète une augmentation des frais de la maison de repos où vit la requérante et fait passer les versements périodiques de la requérante à 482 \$ par mois. La Commission a également adjugé à la requérante la somme de 156 \$ pour couvrir l'augmentation des frais engagés.

somme de 8 000 \$ en indemnisation de la douleur et des souffrances 7 1) d).

□ DOSSIER : 922-019812

Auditon à huis clos. La requête-rante, âgée de 18 ans, avait été entraînée dans une rue, sous la menace d'un couteau, et sexuelle-ment agressée. Lorsque l'agresseur a pris la fuite, elle a couru jusqu'à chez elle et a rapporté l'incident à ses parents qui ont immédiatement appelé la police. Depuis cette agression, la victime a pris part à quatre sessions de consultation afin de l'aider à surmonter sa crainte d'être seule. Cependant, elle a déclaré avoir fait peu de progrès en ce sens et, comme elle n'aime pas discuter de l'incident, a interrompu tout traitement professionnel. La victime est devenue entièrement dépendante des autres pour assurer sa sécurité et a souvent besoin de compagnie et de moyen de transport particulier. Chaque jour, entre mars 1987 (moment de l'agression) et novembre 1988, elle faisait l'aller-retour à son lieu de travail en taxi. Pour ses rares sorties, elle se déplaçait en taxi ou se faisait conduire par ses parents. Par conséquent, ses revenus ont en grande partie servi aux frais de transport. L'agresseur a été inculpé d'agression sexuelle, mais n'a pas été reconnu coupable dû à un vice de forme. La Commission a déclaré la demande admissible, conformément à l'article 5 a) de la Loi et a adjugé la somme de 5 000 \$ en indemnisation des frais de transport 7 1) a); 10 000 \$ pour la douleur et les souffrances 7 1) d) et 500 \$ pour couvrir les honoraires du procureur, soit une indemnité totale de 15 500 \$. Conformément à l'article 25 de la Loi, la Commission pourra indemniser la victime pour les frais de consultation ou de thérapie dont

elle pourra avoir besoin à l'avenir et pour les frais de transport s'y rattachant. Le procureur responsable avisera la Commission du traitement possible et des frais s'y rattachant, pour l'approbation de la Commission.

□ DOSSIER : 922-018080

Auditon à huis clos. La Commission a accordé une prolongation du délai de prescription pour cette demande. Entre l'âge de 6 ans et de 14 ans, le requérant a été victime d'agressions sexuelles de la part de son père. Le requérant a aussi été forcé d'assister à des actes sexuels entre sa soeur et son frère et on lui disait que ces actes étaient normaux. L'agresseur exposait continuellement ses enfants à sa collection de photos pornographiques, de même qu'à un langage vulgaire en décrivant les photos. Lorsque le requérant a atteint l'âge de 14 ans, il a menacé son père de le tuer s'il ne mettrait pas fin aux agressions sexuelles. Après la divulgation de ces incidents, le requérant a été déshérité par sa famille et banni de son organisation religieuse. Il a ensuite erré de part et d'autre, menant une vie de bohème. Il a tenté de remédier aux effets des agressions sexuelles en bloquant les souvenirs de son passé, mais était troublé et songeait au suicide. Il se sentait isolé des autres et en voulait beaucoup à son père. Il reçoit actuellement des traitements psychiatriques. L'agresseur a été inculpé en rapport avec les agressions sexuelles commises contre le frère et la soeur du requérant et a été condamné à une peine confondue de 2 ans moins un jour, qu'il doit purger dans un centre d'éducation surveillée. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme

de 12 000 \$ en indemnisation de la douleur et des souffrances 7 1) d); et 300 \$ pour couvrir les honoraires du procureur, soit une indemnité totale de 12 300 \$.

□ DOSSIER : 922-019317

Auditon à huis clos. La requête-rante, âgée de 22 ans au moment de l'incident, a été victime d'une agression sexuelle dans le stationnement extérieur de l'immeuble où elle habitait, au moment de se rendre à son travail. À l'hôpital, un examen a révélé qu'elle avait été gravement traumatisée par l'agression. Elle n'avait subi aucune lésion corporelle. L'employeur de la requérante a couvert ses pertes de revenus; la demande d'indemnisation présentée à la Commission portait uniquement sur des frais de 50 \$ pour le rapport médical. La Commission a couvert les pertes de revenus du fiancé de la requérante qui s'est absenté du travail pendant trois jours et demi pour rester à ses côtés après l'agression. Les accusations portées contre l'agresseur ont été rejetées faute d'une identification formelle. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 8 000 \$ pour la douleur et les souffrances 7 1) d). La Commission a également adjugé la somme de 213,06 \$ au fiancé de la requérante pour ses pertes de revenus, soit une indemnité totale de 8 213,06 \$.

□ DOSSIER : 922-019558

Auditon à huis clos. La requête-rante, âgée de 25 ans, a été victime d'une agression sexuelle à son domicile, à environ 2 h du matin. Un homme s'est introduit par effraction dans son appartement, a couvert le visage de la victime avec une serviette et l'a violée à plusieurs reprises, puis s'est enfui à environ 6 h du matin. L'agresseur

demande a initialement été présentée par la mère de la victime d'agression sexuelle. Cependant, cette dernière est devenue la requérante au moment de ses 18 ans, en 1988. À l'âge de 16 ans, après s'être enfuie du foyer familial à quatre reprises, la requérante a révélé avoir été victime d'agressions sexuelles pendant des années, de la part de son père. Suite à cette révélation, la victime a eu recours à des services de consultation et s'est inscrite à un groupe de thérapie avec d'autres adolescentes ayant été victimes d'agressions. Les professionnels travaillant avec le groupe sont d'avis que celui-ci a aidé la victime en lui offrant un environnement favorable et compréhensif lui permettant de discuter de la relation qu'elle a eue avec son père. Elle pouvait ainsi extérioriser sa colère envers les autres membres de sa famille face à leur manque de compréhension et de soutien. Par la suite, la requérante s'est jointe à un autre groupe de victimes d'exploitation sexuelle et, au cours d'une période de 10 semaines, a participé à des discussions, mais trouvait encore difficile d'en parler. Le coordonnateur du groupe a conclu que l'état émotionnel de la victime avait été gravement affecté par l'exploitation sexuelle et que ses progrès scolaires, son intégration sociale, ses relations avec sa famille et ses amis avaient été considérablement entravés. Elle pourra plus tard avoir besoin de consultation supplémentaire pour résoudre complètement ces problèmes. L'agresseur a été trouvé coupable d'agression sexuelle et condamné à sept mois de prison plus trois ans de probation. La Commission a déclaré la demande admissible, conformément à l'article 5 a) de la Loi et a adjugé la

très mère qui a mis beaucoup d'efforts à contre les effets de l'agression. Elle croit aussi que la victime a réussi à surmonter le traumatisme, mais craint des effets ultérieurs dont on ne peut prévoir l'étendue. La douleur, le chagrin, la colère, le sentiment de vulnérabilité et l'ajustement se poursuivront pendant des années. La requérante est tendue s'il y a quelqu'un sur la banquette arrière lorsqu'elle conduit et craint les espaces clos tels les ascenseurs. De plus, elle croit difficilement en la sincérité des gens, depuis cet incident. La Commission a rejeté une demande d'indemnisation pour l'endommagement des vêtements et l'argent volé, cette indemnisation étant exclue de ses compétences. Cependant, la Commission a fait remarquer à la requérante les dispositions de l'article 25, pour les frais de consultations ultérieures, advenant qu'elle en ait besoin. L'agresseur a été inculpé sous trois chefs d'accusation, d'enlèvement, d'agression sexuelle, de sodomie, d'attentat à la pudeur et de vol. Après avoir été reconnu comme un délinquant dangereux, il a été condamné à l'incarcération dans une prison fédérale pour une période indéterminée. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 266,25 \$ pour les frais engagés 7 1 a) ; 270 \$ pour les pertes pécuniaires de la victime 7 1 b) ; 18 000 \$ pour la douleur et les souffrances ; 350 \$ pour les frais juridiques et 407,50 pour les débours, soit une indemnité totale de 19 293,75 \$.

□ DOSSIER : 922-017024

Audit à huis clos. Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La

que d'une imitation fort convaincante). Durant les 18 heures suivantes, les jeunes filles ont été forcées, sous la menace du pistolet, de se rendre à trois différents endroits où elles ont été sexuellement agressées et forcées à accomplir divers autres actes. Par la suite, l'agresseur a déchiré leurs vêtements et les a laissées, nues et attachées, dans un champ, leur faisant croire qu'il allait les tuer, pour s'assurer qu'elles ne puissent pas l'identifier. Peu de temps après qu'il eut quitté les lieux, les jeunes filles ont réussi à se délier et sont allées demander de l'aide à une femme, dans une maison située à proximité. La police a été contactée et les trois jeunes femmes ont été conduites à un centre médical. Un examen médical a révélé des égratignures sur les jambes de la requérante, ainsi que sur les fesses, la partie supérieure du bras gauche et l'épaule, de même qu'un déchirement et un oedème autour de l'anus. On lui a prescrit des médicaments et elle a pu rentrer chez elle. Les trois jeunes filles ont assisté à des sessions de consultation hebdomadaires pendant sept ou huit mois. Les professionnels en consultation avec la requérante après cet incident ont fait état, devant la Commission, du choc émotionnel, de la dépression réactionnelle, des accès de pleurs imprévisibles, de l'irritabilité, des sentiments de crainte et de l'insomnie dont elle a souffert. Une consultante a précisé que le jeune âge et l'absence d'expérience sexuelle préalable de la victime avaient rendu le traitement du traumatisme particulièrement difficile et que celle-ci serait sans doute affectée pour le reste de ses jours. Par contre, elle a décrit la victime comme une jeune femme

□ DOSSIER : 922-017420

Auditon à huis clos. Cette demande a été présentée par le père naturel, au nom de sa fille, née le 28 février 1971, qui a fait l'objet de baisers inconvenables et d'autres formes de contact sexuel, incluant l'atouchement des parties génitales, par un homme vivant en union de fait avec la mère, entre le printemps et l'automne de 1983. L'adolescente a révélé ces incidents à son père en 1985. Celui-ci a contacté la police qui a entrepris une enquête. Des rapports présentés à la Commission font état du désespoir et de la frustration ressentis par la victime lorsque sa mère refusait de la croire quand elle lui rapportait ces incidents. La mère exigeait que la victime présente des excuses à l'agresseur et a fini par abandonner les enfants pour continuer sa relation avec l'agresseur. Ces rapports faisaient également état de la tension et de l'anxiété de la victime face à son témoignage pendant les poursuites criminelles et de son hospitalisation en 1985 suivant une tentative de suicide. La victime a pris part à un programme de 12 sessions de thérapie. Durant son témoignage devant la Commission, le requérant a déclaré que la victime fonctionnait bien au niveau académique et social. Elle veut maintenant poursuivre des études postsecondaires. Il a dit s'inquiéter de l'avenir de sa fille, craignant les conséquences possibles de ce qu'il lui est arrivé. La Commission a attiré son attention sur les dispositions de l'article 25, selon lesquelles la Commission peut indemniser les frais de consultations directement reliés aux incidents susmentionnés, moyennant les preuves documentaires requises. L'agresseur a été reconnu coupable d'agression sexuelle sous

deux chefs d'accusation mettant

en cause la victime, et sous deux autres chefs d'accusation mettant en cause la soeur de la victime. Un troisième chef d'accusation concernant cette dernière a été retiré. L'agresseur a été condamné à huit mois de prison sous chacun des chefs d'accusation et à trois ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a ordonné que la somme de 7 500 \$ soit déposée au crédit de la victime par le comptable de la Cour supérieure de l'Ontario, conformément à l'article 36 (6) de la Loi sur les fiduciaires et soit gardée en fiducie jusqu'à ce que la victime atteigne l'âge de 18 ans, soit une indemnité totale de 7 500 \$ plus les intérêts accrus.

□ DOSSIER : 922-016506

Auditon à huis clos. Cette demande, initialement présentée à la Commission par le père de la victime, est passée au nom de celle-ci depuis qu'elle a atteint l'âge de la majorité. L'incident est le même que celui rapporté dans les dossiers 922-016507 et 922-016508. Le 27 août 1985 au soir, la requérante, alors une étudiante âgée de 16 ans était allée au restaurant en compagnie de deux de ses amies. Un homme les a approchées et leur a raconté qu'on lui avait volé tout son argent et ses effets personnels. Il leur a demandé de le conduire à la gare d'où il pourrait trouver le moyen de retourner chez lui, dans un pays voisin. Ne se sentant pas menacées, du fait qu'elles étaient trois, les jeunes filles ont accepté. Lorsque celles-ci ont refusé de s'engager dans une voie sans issue, suivant les indications de l'agresseur, celui-ci a produit ce qui semblait être un pistolet (on a par

la suite découvert qu'il ne s'agissait

a guéri sans complications, mais le requérant a perdu beaucoup de force dans la région lésée. Un jeune contrevenant a été accusé d'agression avec une arme et de possession d'armes dangereuses pour la paix publique. Il a été condamné à un an de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 101,40 \$ pour les frais d'ambulance et de soins médicaux 7 1) a) ; 6 937,60 \$ pour les pertes pécuniaires de la victime 7 1) b) ; 1 500 \$ pour la douleur et les souffrances 7 1) d) ; et 45 \$ pour le coût du rapport médical 7 1) f), soit une indemnité totale de 8 584 \$.

travaillleur s'est approché de lui et lui a demandé ce qu'il regardait. Celui-ci a frappé le requérant, l'a projeté au sol et lui a assené un coup de tuyau de fer sur la tête. Le requérant a subi au cuir chevelu une laceration mesurant 14 cm de longueur et ayant 4 cm de profondeur. À cause de cette blessure, il a dû s'absenter de son travail pendant 10 semaines et il souffre encore de maux de tête et d'une sensation de brûlure à l'endroit de la blessure. L'assailant a été reconnu coupable d'agression avec une arme et a été condamné à 14 jours de prison ou une amende de 500 \$. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 2 000 \$ pour la douleur et les souffrances 7 1) d) ; et la somme de 75 \$ pour la perte de revenus reliée à sa comparution devant la Commission 7 1) f), soit une indemnité totale de 2 075 \$.

□ DOSSIER : 922-018456

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, un ouvrier en construction âgé de 23 ans, entrant dans un restaurant à environ 3 h du matin a été heurté par l'assailant. L'assailant a heurté à nouveau le requérant et a commencé une altercation, mais le requérant l'a ignoré et s'est mis à parler avec certains de ses amis qui se trouvaient dans le restaurant. L'assailant s'est alors emparé d'un gros couteau qui se trouvait derrière le comptoir et a attaqué le requérant. Pour se défendre, celui-ci a soulevé une table dont il s'est servi comme bouclier, mais a reçu une entaille à l'épaule gauche. Le requérant a été transporté à l'hôpital où il a reçu des points de suture et a pu rentrer chez lui. La blessure

entailles profondes, l'une dans le poumon et l'autre traversant le poumon et le péricarde. Du sang fut découvert dans le péricarde. Une légère laceration du coeur fut suturée et la blessure au poumon fut soignée en même temps. La requérante dut retourner à la salle d'opération pour arrêter le saignement postopératoire. Elle est sortie de l'hôpital le 28 décembre 1986, après une longue période aux soins intensifs, suivi d'un passage en chirurgie. La perte de l'usage de l'oeil droit, suite à l'agression, a causé de graves difficultés à la requérante, car celle-ci avait auparavant une vision partielle de l'oeil gauche, suite à une légère dégénérescence. Elle souffre aussi de cilllement et de fibrillation auriculaire récurrents depuis son traitement aux soins intensifs. Même si les médicaments semblent remédier efficacement à cet état, le médecin indique que ces problèmes sont probablement dus aux cicatrices auriculaires laissées par les entailles infligées pendant l'agression. Ces problèmes ont entraîné la réhospitalisation de la requérante, tout en lui causant de l'anxiété. Malgré son rétablissement remarquable, la requérante continue à souffrir de divers symptômes, y compris des malaises considérables, des élançements et des troubles respiratoires. Elle se plaint aussi d'un engourdissement le long du côté droit du nez, du visage, des lèvres et de la voûte du palais, ce qui lui a fait perdre le sens du goût et lui a causé des problèmes d'alimentation. L'épaule droite n'est pas encore fonctionnelle et est douloureuse. La requérante est incapable de lever le coude plus haut que la hanche et par conséquent est incapable de prendre un bain ou de s'habiller, ou de faire ses travaux ménagers.

Son médecin a recommandé un programme de physiothérapie. Par ailleurs, l'incident a durement traumatisé la requérante. Depuis l'agression, elle souffre de troubles de sommeil, d'insomnie, d'anxiété et de dépression réactionnelle. Elle rapporte aussi qu'il lui est beaucoup plus difficile de vaquer à ses activités quotidiennes et que celles-ci sont moins agréables à cause de la perte de la vue de l'oeil droit, qui était son bon oeil, et la détérioration de la vision de l'oeil gauche. Elle a très peur d'être laissée seule et dit avoir perdu tout sentiment de sécurité et de confiance en soi. Compte tenu de la nature et de la gravité des blessures et des conséquences qu'elles ont entraînées, la Commission a adjugé à la requérante le montant maximal prévu par la Loi pour l'indemnisation de la douleur et des souffrances. Cependant, ayant adjugé le montant maximal, qui était dûment justifié, la Commission a décidé de n'accorder aucune indemnisation pour les nombreux autres frais rattachés aux blessures, exception faite de deux rapports médicaux. L'assailant a plaidé coupable à des accusations d'entrée dans un véhicule, de tentative de meurtre et a été condamné à 15 ans de prison. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 25 000 \$ pour la douleur et les souffrances 7 1) d) et 100 \$ pour les autres pertes pécuniaires 7 1) f), soit une indemnité totale de 25 100 \$.

□ DOSSIER : 922-019629

Le requérant ayant été avisé de l'audition et ne s'étant pas présenté, sous l'autorité de la Loi sur l'exercice des compétences légales, la Commission a étudié la demande à partir seulement des preuves do-

La requérante a déclaré qu'il a été projeté au sol. Il a pu conduire jusque chez lui et a demandé à ses compagnons de chambre de l'emmener à l'hôpital et d'appeler la police. À l'hôpital, on a retiré la section projectile d'une balle de calibre 22 de la partie supérieure de l'orbite gauche. Le requérant a subi une opération pour réparer les lacerations de l'oeil et pour retirer de multiples corps étrangers. Il a également souffert d'une hémorragie vitreuse de l'oeil gauche. Après la chirurgie, l'acuité visuelle non corrigée de l'oeil gauche du requérant correspondait à "compter les doigts à un pied de distance". Au cours des mois suivants, cependant, la vision de cet oeil a été réduite "au niveau du mouvement des mains" et le requérant a ressenti une pression élevée de l'oeil gauche. Une autre opération, presque un mois après l'incident, consistait en une vitrectomie et un plissement scléral. L'opération a révélé de profondes cicatrices sur la rétine nasale et des cicatrices moins profondes dans la région maculaire. Après la chirurgie, la vision de l'oeil gauche était de 20/400 avec une lentille +12. On s'attend à ce que la vision du requérant reste à ce niveau, le rendant légalement aveugle de l'oeil gauche. L'assailant n'a pas été appréhendé. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 8 000 \$ pour la douleur et les souffrances 7 1) d).

□ DOSSIER : 922-017704

Le requérant, un soudeur de 45 ans, était au travail lorsqu'un autre

Voies de fait avec une arme

□ DOSSIER : 922-018127
La requérante, une femme handi-capée de 22 ans, se trouvait au domicile d'un ami où avait lieu une fête, lorsque l'un des invités s'est mis à rudoyer verbalement et physiquement plusieurs des autres personnes présentes. On lui a demandé de s'en aller. Quelqu'un lui a lancé une bouteille de bière et celui-ci a cru, à tort, que c'était la requérante qui l'avait lancé. Il s'est précipité vers la requérante qui avait alors deux jeunes enfants sur ses genoux, et a commencé à la frapper dans le visage et sur la tête avec une bouteille de bière. Comme elle tentait de se protéger contre les coups, sa main gauche a été gravement lacérée. L'assailant a fini par s'enfuir et l'on a emmené la victime à l'hôpital. À l'hôpital, un médecin a constaté des lacérations à la tête, au cou et au front de la requérante. La lacération de sa main gauche a causé le sectionnement du tendon extenseur et le sectionnement partiel d'un autre tendon. On lui a fait des points de suture et l'on mit son index dans une éclisse, qu'elle a porté pendant un mois. Un rapport médical présenté à la Commission indiquait que les blessures de la requérante n'entraîneraient pas d'effets permanents, mais à l'audition, celle-ci a avisé la Commission que son index est engourdi de façon permanente et ne peut être redressé. Par conséquent, elle a perdu une partie de sa prise et il lui a été impossible de se servir de sa chaise roulante pendant trois mois après l'agression, et de son déambulateur pendant six mois. Elle souffre maintenant de maux de tête chroniques et de douleur à la base du cou. Elle a aussi souffert émotionnellement, mais elle craint surtout les répercussions possibles sur son petit garçon qui a été témoin de l'agres-

sion. Au moment de l'audition, un mandat d'arrestation était en instance contre l'assailant. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 4 000 \$ pour la douleur et les souffrances 7 1) d) ; 59,50 \$ pour les pertes pécuniaires 7 1) f) ; 500 \$ pour les honoraires du procureur et 151,50 \$ pour les débours, soit une indemnité totale de 4 711 \$.
□ DOSSIER : 922-018007
Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le 29 novembre 1986, entre 2 h et 3 h du matin, l'assailant s'est introduit par la force dans le domicile de la requérante, âgée de 70 ans. Lorsque l'assailant l'a trouvée endormie dans une chambre au rez-de-chaussée, il lui a assené 31 coups de couteau. Le mari (dossier 922-018008), qui est accouru au secours de la victime en entendant ses cris, a également été agressé, mais a pourchassé l'assailant qui s'est enfui. Le mari a ensuite appelé la police et l'ambulance. À son arrivée à l'hôpital, la requérante souffrait de choc hypovolémique, ayant perdu beaucoup de sang. Après un traitement préliminaire, on l'a emmenée en chirurgie. Certaines des lacérations étaient passablement superficielles, mais l'on a dénombré 31 entailles, dont l'une dans l'oeil droit et certaines blessures profondes dans la poitrine, le cuir chevelu et la partie supérieure du bras droit. On a nettoyé les lacérations, procédé aux sutures nécessaires et opéré d'urgence l'oeil droit. À son retour aux soins intensifs, on a découvert une importante fuite d'air du côté gauche de la poitrine. La requérante a subi une thoracotomie le 1^{er} décembre qui a révélé deux

procédé à une réduction par voie sanglante pour réparer la fracture avec du fil métallique et des barres d'arcade. Sa mâchoire inférieure a été verrouillée en position fermée avec du fil de fer. Les fils de fer et les barres ont été laissés en place pendant un mois et demi. Un jeune contrevenant a été inculpé de voies de fait des plus graves et a été condamné à 30 jours de garde en milieu fermé, plus deux ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi formément à l'article 5 a) de la Loi et a adjugé la somme de 2 500 \$ pour la douleur et les souffrances 7 1) d) ; 150 \$ pour les honoraires du procureur et 393,15 \$ pour les débours, soit une indemnité totale de 3 043,15 \$.

□ DOSSIER : 922-015980

Le requérant, âgé de 39 ans, a été poignardé dans la partie supérieure de l'avant-bras gauche alors qu'il se trouvait dans une taverne. Il a subi une profonde entaille et a perdu beaucoup de sang. Il a été examiné sous anesthésie générale et l'on a constaté de nombreuses lacerations aux tendons et aux muscles extenseurs des doigts et du poignet. On a aussi constaté des dommages aux nerfs sensoriels (nerfs procurant la sensation le long de la partie arrière du bras et du poignet). On a réparé ces dommages, mais le rétablissement du requérant a été lent et incomplet depuis sa sortie de l'hôpital. Comme il est gâucher, le requérant trouve que ces blessures nuisent considérablement à l'exécution de ses activités quotidiennes. Pendant qu'il soulevait un classeur, au travail, il s'est fracturé une jambe parce qu'il n'a pas pu supporter le poids du classeur avec sa main gauche. Depuis l'incident, il continue aussi à souffrir de cauche-

mars, d'anxiété, de dépression et craint une autre agression de son assaillant. La Commission l'a avisé des dispositions de l'article 25 de la Loi, advenant qu'il ait besoin de consultations ou de thérapie. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 47 \$ pour les médicaments et les services ambulanciers 7 1) a) ; 7 500 \$ pour la douleur et les souffrances 7 1) d) ; 400 \$ pour les frais du procureur et 300 \$ pour les débours, soit une indemnité totale de 8 247 \$.

□ DOSSIER : 922-018107

Audition à huis clos. Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La demande a été présentée par la mère d'un garçon qui, à l'âge de quatre ans, a été physiquement, et possiblement sexuellement, agressé par son gardien. Un examen médical effectué une fois que les parents ont été mis au courant de l'agression, a révélé que le garçon avait subi des brûlures de deuxième degré à la poitrine, des contusions multiples aux poignets, au dos et aux jambes, et des abrasions dans la région génitale. Dix mois de "thérapie par le jeu" semblent avoir été un succès, comme en témoigne le comportement calme et heureux du petit garçon. Sa réaction émotive à l'agression semble normale. Le procureur du requérant a avisé la Commission que l'assaillant avait été condamné à une peine de 5 000 \$ plus 10 % d'intérêt par année. Au moment de l'audition, la requérante n'avait rien reçu de ce montant et il semblerait peu probable qu'elle reçoive quoi que ce soit. La Commission a rappelé ses droits de subrogation à la requérante, advenant le recou-

remement de tout montant L'assaillant a été reconnu coupable de voies de fait des plus graves et a été condamné à 2 ans moins un jour de prison plus 3 ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 5 000 \$ pour la douleur et les souffrances, payable au comptable de la Cour suprême de l'Ontario, conformément à l'article 36 6) de la Loi sur les fiduciaires, à être investie pour la victime et gardée en fiducie jusqu'à ce qu'il atteigne l'âge de 18 ans. La Commission a aussi adjugé la somme de 40 \$ pour l'obtention du rapport médical 7 1) f) ; 300 \$ pour les honoraires du procureur et 50 \$ pour les débours, soit une indemnité totale de 5 390 \$.

Voies de fait des plus graves

□ DOSSIER : 922-016963

Le requérant, âgé de 62 ans, travaillait les fins de semaine comme chauffeur de taxi. Il avait pris à bord un client, un homme bien habillé qui ne montrait aucun signe d'intention criminelle et l'avait conduit à la destination demandée, lorsque le passager a sorti un couteau et a poignardé le requérant pour lui voler son argent. Le requérant a réussi à désarmer l'assailant et à le mettre en fuite. Le requérant a alors contacté le radiotéléphoniste. Un passant lui est venu en aide et a appelé la police. Le requérant a été amené à l'hôpital et a été traité pour de multiples blessures de couteau à la poitrine et au poignet. Sa pression était presque inexistante, les veines de son cou étaient dilatées et il ne réagissait pas. On l'a immédiatement amené à la salle d'opération où il a été opéré d'urgence pour une sternotomie médiane avec réparation d'une laceration au ventricule droit. Pendant l'opération, il a souffert d'arythmie et d'acidose aigüe auxquelles on a remédié avec succès. Au cours des jours suivants, la condition du requérant s'est constamment améliorée et ses blessures ont guéri sans complications. Il est sorti de l'hôpital trois semaines après l'agression. Deux semaines après sa sortie de l'hôpital, il a consulté son médecin, se plaignant de douleur inter-cin, et d'enflure des jambes. Deux semaines plus tard, il a revu son médecin, disant qu'il ne se sentait pas bien et avait une raideur à la poitrine. Son médecin n'a rapporté aucun problème sauf une légère tachycardie de 100

battements par minute. Très de quatre mois après l'agression, le médecin du requérant l'a examiné à nouveau et l'a trouvé en bien meilleure condition. Il l'a déclaré suffisamment rétabli pour s'adonner à presque toute activité et l'a assuré qu'il n'y avait aucun dommage cardiaque résiduel. À l'audition, le requérant a déclaré à la Commission qu'il ne pouvait pas encore retourner au travail, ne s'en sentant pas capable physiquement et émotionnellement. Il a dit éprouver de la crainte et être beaucoup plus méfiant à l'égard des clients. La Commission a accepté sa demande d'indemnisation de pertes de revenus pour une période de 25 semaines. L'assailant n'a pas été appréhendé. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 2 360 \$ pour les pertes pécuniaires de la victime (71 b) ; 4 000 \$ pour la douleur et les souffrances (71 d) ; 134,50 \$ pour les autres pertes pécuniaires (71 f) ; 450 \$ pour les honoraires du procureur et 107 \$ pour les débours, soit une indemnité totale de 7 051,50 \$.

□ DOSSIER : 922-019881

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, âgé de 17 ans au moment de l'incident, sortait d'une salle de danse avec son amie par un soir du mois de novembre, à environ 23 h 15, lorsque deux jeunes individus lui ont barré le chemin. L'un d'eux s'est emparé du chapeau du requérant et l'a jeté par terre. Pendant que celui-ci se penchait pour le ramasser, l'autre individu a frappé le requérant sur la mâchoire. Le même soir, à l'hôpital, on a diagnostiqué une fracture du maxillaire inférieur gauche. On a

qu'elle souffrait de convulsions et de tics, de problèmes de motricité, d'hyperlexie et de retard de développement. L'information médicale la plus récente paraissant à son dossier indique que son développement neurologique correspondait à son âge chronologique, mais qu'elle risquait toujours une spasticité à évolution lente dans ses extrémités inférieures. L'assailant a été reconnu coupable de voies de fait causant des lésions corporelles et condamné à 4 mois de prison. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 305,80 \$ pour les frais engagés 7 1) a), et 15 000 \$ pour la douleur et les souffrances 7 1) d), payable au comptable de la Cour suprême de l'Ontario conformément à l'article 36 (6) de la Loi sur les fiduciaires, et à être gardée en fiducie et investie jusqu'à ce que la victime atteigne l'âge de 18 ans. La Commission a également adjugé la somme de 200 \$ pour les honoraires du procureur et 150 \$ pour le rapport médical du médecin, soit une indemnité totale de 15 655,80 \$. La Commission a également pris en considération les frais de physiothérapie ultérieurs, en invoquant les dispositions de l'article 25 de la Loi.

pendant l'agression ont dû être extraites et une autre dent avait été forcée hors de sa base. Elle n'a eu à déboursier aucuns frais dentaires jusqu'à maintenant, mais s'attend à avoir besoin de soins additionnels. La Commission considérera l'indemnisation de ces frais ultérieurs, conformément aux dispositions de l'article 25 de la Loi, moyennant réception d'un rapport dentaire confirmant que les dommages ont été causés par l'agression et indiquant le plan de traitement recommandé et les frais s'y rattachant. L'assailant a été inculpé de voies de fait causant des lésions corporelles et a reçu une sentence avec sursis, plus 2 ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 315 \$, couvrant le coût d'une échisse et du transport pour recevoir le traitement 71 a) ; 2 000 \$ pour les pertes pécuniaires de la victime 71 b) ; et 9 000 \$ pour la douleur et les souffrances 71 d), soit une indemnité totale de 11 315 \$.

□ **DOSSIER : 922-018679**

Audition à huis clos. Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La demande a été présentée par la mère adoptive d'une enfant âgée de cinq semaines qui a été victime de sévices de la part de son père et a été brutalement secouée ou frappée à la tête. La victime a été amenée aux soins intensifs du service de pédiatrie où l'on a diagnostiqué une hémorragie intracrânienne du côté droit avec épanchement subdural. À sa sortie de l'hôpital, elle a été confiée aux soins d'une mère nourricière expérimentée. La victime a été examinée par divers pédiatres qui ont tous rapporté

qu'elle consulte un médecin surlendemain, l'assailant a quitté la maison à diverses occasions, en emportant le téléphone ; la requérante a réussi à se sauver et a appelé une ambulance. Un examen a révélé que la requérante avait subi une fracture à projection dans la partie inférieure de l'orbite droite (cavité osseuse du crâne qui contient l'œil), deux côtes fracturées et des contusions sur les bras et les jambes. On a par la suite diagnostiqué sur le tendon d'un pouce, une ténosynovite traumatique qui a requis une échisse et des médicaments anti-inflammatoires. Un mal de dos présent avant l'incident a empiré. À cause de la blessure subie à l'œil, la requérante souffrait de douleur et avait la vision embrouillée en regardant vers le haut et la droite. Cependant, la douleur et l'embrouillement associés au mouvement des yeux ont diminué avec le temps. Elle a aussi été diagnostiquée comme souffrant de tension post-traumatique et a besoin de psychothérapie deux fois par semaine. Son médecin a déclaré que la requérante suivait sa thérapie avec diligence et se montrait déterminée à refaire sa vie, mais continuera probablement à souffrir des conséquences émotionnelles des mauvais traitements qu'on lui a infligés. Elle ne touchait pas de salaire régulier pour son travail, mais une partie des profits servait à payer sa part des frais domestiques. La Commission a admis la somme de 2 000 \$ calculée par la requérante comme étant sa perte de revenu nette. La requérante a aussi présenté une demande d'indemnisation au montant de 300 \$ pour le traitement dentaire requis suite à l'agression. Deux dents ébranlées

une perte partielle de l'ouïe de l'oreille droite. Il avait aussi une cicatrice sur la joue droite, qu'il refusa de faire soigner. À présent, le requérant a perdu une partie de l'ouïe de l'oreille droite, souffre de tintement dans cette oreille et de perte de mémoire et n'a plus aucun sens du goût et de l'odorat. Les assaillants ont été inculpés de voies de fait causant des lésions corporelles. L'assailant qui avait frappé avec une bouteille de bière a été reconnu coupable et a été condamné à 20 jours de prison. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi, mais a invoqué l'article 171 et a adjugé une somme moindre, soit 3 500 \$ pour la douleur et les souffrances 71 d).

□ **DOSSIER : 922-015427**

Audition à huis clos. La requérante, âgée de 41 ans, a aidé son conjoint de fait dans l'exploitation de ses entreprises. Elle venait de faire des entrées aux livres, lorsqu'une dispute est survenue entre eux. La dispute s'est transformée en bagarre au cours de laquelle son conjoint l'a frappée et l'a projetée au sol. Il a alors mis fin à l'agression et s'est excusé auprès d'elle. Plus tard, au cours de la même journée, l'assailant a encore une fois attaqué la requérante en lui tirant les cheveux, en la frappant et en lui donnant des coups de pied. Il l'a ensuite laissée par terre, à demi-consciente et incapable de se relever. Plus tard, l'assailant l'a amenée à la salle de bain et l'a aidée à se laver la figure. Il lui a encore une fois présenté des excuses et s'est mis à pleurer. La requérante a témoigné que l'assailant l'avait maltraitée auparavant, mais qu'il s'agissait de loin de la pire agression. Le jour suivant, il n'a pas

est estimé à environ 975 \$, moyen-nant un rapport du dentiste de la requérante indiquant la réalisation de ces soins et leur rapport direct avec les blessures. La requérante n'a que récemment admis l'étendue du traumatisme psychologique qu'elle a souffert et a été référée à un psychiatre par son médecin de famille. Elle a dû mettre fin à son entreprise et, compte tenu de l'information financière fournie, la Commission a évalué sa perte de revenus nette à environ 7 200 \$. L'assailant a été appréhendé après avoir commis deux autres agressions contre des femmes. En rapport avec le cas de la requérante, il a été reconnu coupable d'étrangement, d'entrée par effraction et de voies de fait. Il a été condamné à deux peines confondues de 7 ans de prison sous chacun des chefs d'accusation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 742 \$ pour les frais engagés 7 1 a) ; 7 200 \$ pour la perte de revenus 7 1 b) ; 12 000 \$ pour la douleur et les souffrances 7 1 d) ; 225 \$ pour les autres pertes pécuniaires ; 400 \$ pour les honoraires du procureur et 75 \$ pour les débours, soit une indemnité totale de 20 642 \$.

□ DOSSIER : 922-016500

Le requérant, un employé d'un magasin de bière, âgé de 30 ans, était au travail quand il a entendu ce qu'il croyait être les pétarades d'une voiture. Il est allé voir ce qui se passait et s'est trouvé face à face avec un homme armé portant une cagoule. Celui-ci lui a dit de reculer et comme il s'exécutait, le requérant a trebuché sur une palette. Son faux pas a surpris l'assailant qui a appuyé sur la gâchette et lui a tiré une balle dans la jambe. Le

requérant a couru se mettre à l'abri et a attendu qu'on appelle la police. Le requérant a été conduit à l'hôpital où un examen a révélé une blessure de balle à la cuisse droite et une abrasion à la cuisse gauche, mais aucun dommage neurovasculaire, fractures ou fragments de l'aire, fractures ou fragments de l'aire, Un examen subséquent, environ un mois et demi plus tard, a permis de constater que les deux blessures étaient parfaitement guéries. À l'audition, le requérant a déclaré à la Commission qu'il est gêné par les cicatrices de ses jambes et que la jambe droite n'a pas retrouvé toute sa force. Il souffre aussi de douleur périodique aux jambes. De plus, il a déclaré que depuis l'incident, il est devenu circonspect, nerveux et très méfiant envers les étrangers. Il n'aime pas travailler au magasin après la tombée du jour et est d'avis que cela nuit à ses chances d'avancement. Il a l'intention de recourir à des consultations psychologiques pour l'aider à surmonter ses craintes. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 3 000 \$ pour la douleur et les souffrances 7 1 d).

□ DOSSIER : 922-020722

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, un employé des chemins de fer âgé de 29 ans, se trouvait dans un bar avec un ami quand l'assailant lui a soufflé sa fumée de cigarette dans la figure. Le requérant s'en est plaint, a pris le cendrier et l'a mis derrière lui. C'est alors que l'assailant a frappé le requérant au visage. À l'hôpital, le requérant a été traité pour une fracture de l'os malaire qui a résulté en l'aplanissement de la pomme.

Par ailleurs, il sentait un engourdissement dans la région de la tempe gauche, de la joue gauche et du côté gauche de la lèvre supérieure. Il ressent toujours un engourdissement et un picotement au côté gauche du visage. À cause de ces blessures, le requérant n'a pu travailler pendant trois semaines, équivalant à une perte de revenus totale de 1 583,13 \$. Ses assurances ayant couvert la majeure partie de ce montant, sa perte nette équivaut à 393,84 \$. L'assailant a été reconnu coupable de voies de fait causant des lésions corporelles et a été condamné à 30 jours de prison. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 27,43 \$ pour les médicaments 7 1 a) ; 393,84 \$ pour les pertes pécuniaires de la victime 7 1 b) ; et 1 800 \$ pour la douleur et les souffrances 7 1 d), soit une indemnité totale de 2 221,27 \$.

□ DOSSIER : 922-018593

Le requérant, âgé de 29 ans, a été impliqué dans une dispute, à environ 1 h du matin, après une soirée passée à boire de l'alcool. Le requérant ne se souvenait que vaguement de l'incident, mais un policier, qui tentait de rétablir la paix sur les lieux, a été témoin de l'agression. Un premier assailant a frappé le requérant au visage avec une bouteille de bière et un deuxième l'a assommé en lui assenant un brutal coup de poing sur le côté gauche de la tête. Le requérant a ensuite été conduit à l'hôpital par ambulance. Le requérant est resté sans connaissance pendant 26 minutes et a requis une intubation pour l'aider à respirer. Un examen a révélé une fracture du crâne du côté droit avec présence de sang dans la cavité du tympan et

Voies de fait causant des lésions corporelles

□ DOSSIER : 922-017518

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, un étudiant dans un bar à environ 22 h pour prendre une bière. En retournant s'asseoir après avoir accroché son manteau, il a été accosté par un autre client qui a exigé des excuses. Le requérant lui a demandé pour-quoi. Une altercation a commencé et les deux hommes en sont venus aux mains. L'assailant a frappé le requérant à plusieurs reprises jusqu'à ce que les portiers séparent les deux hommes. Pendant l'altercation, ceux-ci sont tombés par terre et le requérant s'est alors heurté le visage sur une table. À l'hôpital, le requérant a été traité pour une contusion sous l'œil gauche, une petite laceration à la bouche et deux dents branlantes à l'avant. La laceration a été suturée et le requérant a par la suite consulté un dentiste qui a restauré les dents avec du plastique et a suggéré une restauration ultérieure avec des couronnes. L'assailant a été reconnu coupable de voies de fait causant des lésions corporelles. Il a reçu une sentence avec sursis et a reçu l'ordre de payer en restitution la somme de 4 097 \$. L'assailant n'a jusqu'à maintenant versé que 1 500 \$. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 2 000 \$ pour la douleur et les souffrances 7 1) d). La Commission a examiné les frais dentaires du requérant jusqu'à ce jour et a déterminé que ceux-ci avaient été adéquatement couverts par la restitution obtenue. La Commission a rejeté sa demande d'indemnisation pour un traitement dentaire probable; cependant, la

Commission a avisé le requérant de recommander avec elle si ce traitement s'avère nécessaire, et de lui fournir un rapport dentaire décrivant les soins reçus, leur rapport avec l'agression et une estimation du coût, afin que la Commission puisse considérer cette partie de la demande conformément à l'article 25 de la Loi. □ DOSSIER : 922-016912

La requérante, une représentante en conditionnement physique, âgée de 25 ans, a été étranglée et battue jusqu'à l'inconscience par un homme qui s'était introduit dans son appartement situé au rez-de-chaussée. Elle a repris connaissance et a réussi à s'échapper en faisant perdre l'équilibre à l'assailant. La requérante a été transportée par ambulance à l'hôpital où l'on a constaté une laceration du cuir chevelu, des bosses sur le front, de l'enflure et des hématomes aux yeux, des marques d'étranglement rouge vif sur le cou, des ecchymoses diffusées sur la figure et des pétéchies (type de contusion) sur la gorge, des abrasions au maxillaire inférieur et sur la joue gauche, de longues marques rouges sur le bras gauche et une contusion au-dessus du coude droit. Elle se plaignait d'avoir mal à la tête et à la gorge. La requérante a déclaré que les contusions et les abrasions ont guéri en trois ou quatre semaines et les yeux, en trois mois. Elle souffre encore de maux de tête et de troubles de sinus, surtout quand elle dort. Au moment de l'agression, la requérante suivait un traitement dentaire, mais a eu besoin de soins additionnels suites aux blessures qu'elle a subies. À ce jour, le coût de ce traitement se situe à 720 \$. La Commission considérera le paiement des soins dentaires ultérieurs, rendus nécessaires par l'agression et dont le coût

advenant qu'il décide d'intenter une action civile.

□ DOSSIER : 922-018035

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le 9 août 1986, le requérant, âgé de 35 ans, dormait chez un ami, quand un ancien copain de ce dernier est entré dans la chambre et s'est mis à frapper le requérant à la figure, puis a volé sa montre et son argent. Quand le requérant est allé dans la salle de bain pour nettoyer le sang qu'il avait à la figure, l'assailant lui a frappé le visage contre le miroir et a attaché une chaîne en or qu'il portait au cou. Pendant que le requérant se faisait soigner à l'hôpital, l'assailant est arrivé, a poussé le médecin et a frappé le requérant à la figure. Le requérant a indiqué dans sa demande d'indemnisation qu'il avait eu le nez cassé, une fracture de la mâchoire et avait dû se faire coudre la lèvre et l'œil gauche, mais le dossier de l'hôpital ne fait pas mention de la blessure à la mâchoire. Des radiographies n'ont révélé aucune fracture au visage ou du nez. Une légère laceration sur la joue gauche a nécessité des points. Le médecin qui a examiné le requérant un mois et demi après l'agression a rapporté que le requérant avait subi une déformation nasale et un problème respiratoire à cause d'une déviation septale. Ce problème a été corrigé par une rhinoplastie le 5 novembre 1986 et une légère modification le 7 mars 1987. Le requérant s'est absenté du travail pour un total de 18 jours, au cours des mois d'août, d'octobre et de novembre 1986. Il a pu recevoir ses payes complètes grâce à ses réserves de congés de maladie. La Commission l'a informé qu'advenant qu'il ait besoin de

ces congés de maladie, il pourrait adresser une demande à la Commission en invoquant l'article 25 de la Loi. L'assailant a été condamné à six mois de prison sous une accusation de vol. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 2 000 \$ pour la douleur et les souffrances. 7 1) d).

radiographies n'ont révélé aucune fracture, dislocation ou anormalité des os. On a diagnostiqué des contusions multiples, on lui a appliqué une éclisse au poignet gauche et on lui a fait prendre du Tylenol n° 3 pour apaiser la douleur. Près de deux ans après l'incident, les blessures à la main et au poignet gauche du requérant n'ont pas guéri adéquatement et, de l'avis de son médecin, les lésions sont permanentes. Ces blessures ont réduit la portée de mouvement de la jointure du poignet et ont réduit sa capacité de prise. Il ressent une douleur intermittente et a été contraint à devenir droitier. Comme le requérant était de service quand il a été blessé, la Commission des accidents du travail l'a indemnisé pour ses pertes de salaire. Cependant, le requérant avait un second emploi comportant des contrats à court terme et les pertes de revenus pour ce poste n'étaient pas couvertes par la Commission des accidents du travail. La Commission a tenu compte de ces pertes. Des accusations de voies de fait causant des lésions corporelles portées contre l'assailant ont été rejetées en cour. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 1 905 \$ pour les pertes pécuniaires de la victime 7 1) b) ; 5 000 \$ pour la douleur et les souffrances 7 1) d) ; 44,50 \$ pour les frais de transport du requérant pour se rendre à l'audition 7 1) f) ; 69,50 \$ pour les frais de transport et les indemnités du témoin 7 1) f), soit une indemnité totale de 7 019 \$.

□ DOSSIER : 922-014867

La Commission a, avec l'accord de l'avocat-conseil du requérant, qui était présent, procédé à l'audition et à l'étude de la demande à partir des preuves documentaires déposées et avec l'assistance et la plaidoirie de l'avocat-conseil du requérant. Le requérant, âgé de 51 ans et sans emploi, était couché quand il a été attaqué par deux colocataires à environ 3 h du matin. Les assaillants l'ont frappé à plusieurs reprises avec une barre de fer et une béquille parce qu'il refusait de signer pour les laisser entrer dans une boîte de nuit dont il était membre. Suite à cette agression, le requérant a été hospitalisé pendant 12 jours, dont 5 jours aux soins intensifs. Il avait subi de multiples lacerations et contusions au cuir chevelu, une fêlure de l'épaule gauche et diverses fractures à la main droite, y compris deux doigts fracturés. Toutes ces blessures ont guéri en 3 mois, mais le requérant est resté avec la main droite déformée, affaiblie et arthritique, qui est constamment douloureuse et d'une raideur permanente. On ne s'attend à aucune amélioration de cet état et l'arthrite empirera avec le temps. Le requérant souffre aussi de tintement dans les oreilles et a une cicatrice au front. Il continue à souffrir d'angoisse nerveuse aiguë et doit prendre des tranquillisants. Les deux assaillants ont été reconnus coupables de voies de fait avec une arme et ont été condamnés à deux ans de prison moins un jour. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 4 000 \$ pour l'indemnisation de la douleur et des souffrances 7 1) d), payable en deux versements égaux, 300 \$ pour les honoraires du procureur et 183,25 pour les débours, soit une indemnité

□ DOSSIER : 922-018545

nité totale de 4 483,25 \$. Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, âgé de 44 ans, était au travail quand un désaccord avec son employeur a mené à une agression physique. L'employeur s'est approché du requérant et a poussé celui-ci, qui est tombé sur le dos, après quoi l'employeur l'a congédié. Le lendemain, le requérant a consulté son médecin. Des radiographies ont révélé une maladie de dégénérescence des disques des vertèbres cervicales et de l'épine dorsale. Le médecin a constaté une surtension au niveau cervical, thoraxique et sacrolom-baire, une commotion, des contusions à la paroi postérieure de la poitrine, à l'épaule droite et à l'omoplate gauche, et de l'anxiété post-traumatique. Le requérant a essayé de retourner au travail, mais n'a pu supporter la douleur. Il a consulté un spécialiste et s'est plaint de picotement à la main gauche, d'insomnie et de raideur au niveau des reins. Un rapport médical ultérieur indiquait que la période d'incapacité a duré environ 10 mois. L'assailant a été inculpé de voies de fait, mais l'accusation a été retirée; le requérant ayant consenti à un ordre de ne pas troubler la paix publique pendant 12 mois. L'assailant a également écopé d'une amende de 500 \$. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 1 540,65 \$ pour les pertes de revenus 7 1) b); et 4 000 \$ pour la douleur et les souffrances 7 1) d), soit une indemnité totale de 5 540,65 \$. La Commission a fait part au requérant des dispositions prévues par l'article 17 3) de la Loi.

requérant a été admis à l'hôpital où l'on a constaté des blessures de coureau à l'abdomen, une laceration du foie et de multiples lacerations de l'intestin grêle et du mésentère de l'intestin grêle. On a pratiqué une laparotomie, surjeté l'artère intercostale (entre les côtes), explore la laceration du foie et de l'espace rétroperitonéal, ferme les petites lacerations de l'intestin grêle et surjeté les lacerations du mésentère de l'intestin grêle. Le requérant s'est bien rétabli jusqu'à ce qu'il subisse une thrombose de la veine profonde gauche. Il a pu quitter l'hôpital 20 jours après l'agression, mais a été réadmis plusieurs mois plus tard pour la réparation d'une hernie due à l'intervention chirurgicale. Le requérant a déclaré à la Commission qu'il continuait à ressentir un malaise à l'endroit des incisions chirurgicales. L'assailant a été reconnu coupable de tentative de meurtre et a été condamné à 14 ans de prison plus une peine confondu de 14 ans. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 1 575 \$ pour la perte de revenus (perte pécuniaire de la victime) 7 1) b); 5 000 \$ pour la douleur et les souffrances 7 1) d); 400 \$ pour les honoraires du procureur et 140 \$ pour les débours, soit une indemnité totale de 7 115 \$.

□ DOSSIER : 922-016420

Avec l'accord du requérant, exprimé par son procureur, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, âgé de 18 ans, buvait de la bière avec des copains dans un parc, le 16 juillet 1986. Pendant qu'il parlait avec une ancienne amie, le nouvel ami de cette jeune fille les a agressés tous les deux. L'assailant a mordu

et attaché le bout du nez du requérant tout en lui assenant des coups de poing et des coups de pied. Le requérant a passé 5 jours à l'hôpital pour la réimplantation du bout du nez. Comme on le craignait, cette greffe n'a pas réussi et, le 13 août 1986, il a été nécessaire de greffer de la peau prélevée de l'oreille droite. Une autre greffe de cartilage a été effectuée le 17 juin 1987 pour correction esthétique. Même si on a amélioré l'aspect du nez, il porte encore des marques qui sont une source de gêne pour le requérant. Le nez est resté plus sensible à la douleur. L'assailant a été condamné à 30 mois de prison consécutifs à la peine qu'il purge déjà pour les voies de fait des plus graves contre le requérant. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 39,68 \$ pour les frais engagés 7 1) a); 2 400 \$ pour les pertes pécuniaires de la victime 7 1) b); 5 000 \$ pour la douleur et les souffrances 7 1) d); 250 \$ pour les frais juridiques et 486 \$ pour les débours, soit une indemnité totale de 8 175,68 \$.

□ DOSSIER : 922-018357

Le requérant, un employé des postes âgé de 27 ans, a témoigné à l'audition que lorsqu'il est arrivé au travail peu avant minuit, le 15 mai 1987, il a été approché par le présumé assailant qui l'a projeté contre un casier, l'a frappé au visage et lui a donné un coup de pied sur la main gauche. Le requérant s'est défendu contre le présumé assailant qui a fini par quitter les lieux. Le requérant a reçu les premiers soins à la succursale postale, puis à l'hôpital pour des écorchures aux jointures et au pouce. Des radiographies ont révélé une fracture de la base du premier métacarpien de la

main gauche. On a appliqué un plâtre spica au pouce. Le plâtre a pu être enlevé le 15 juin. Il n'y avait aucun désalignement clinique et le déplacement n'était que de 2 ou 3 mm. Le requérant a indiqué à la Commission que son pouce a été douloureux pendant plusieurs mois et qu'il n'a pas encore retrouvé sa force normale lorsqu'il essaie de soulever des objets lourds. Le requérant n'a pas immédiatement rapporté l'incident à la police. Après avoir considéré plus longuement, suivant les conseils du policier chargé de l'enquête, il a juré de la véracité d'un renseignement qui inculpait le présumé assailant de voies de fait causant des lésions corporelles. Un témoin principal, à qui le présumé assailant avait admis avoir commis l'agression, n'a pas été cité à comparaitre et l'accusation a été retirée. Plutôt que d'entreprendre un autre procès, le requérant a accepté que l'assailant signe un engagement de ne pas troubler la paix publique. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 800 \$ pour la douleur et les souffrances 7 1) d).

□ DOSSIER : 922-017052

Le requérant, un agent des services correctionnels âgé de 35 ans, paraissait à l'extérieur de la cour d'exercice de la prison quand un détenu s'est mis en colère et s'est mis à lui crier des injures en blasphémant. Le requérant a accusé le détenu d'inconduite et lorsqu'il a tenté de l'escorter hors de la cour d'exercice, a été agressé par ce dernier. Le requérant s'est rendu à l'hôpital l'après-midi du même jour et l'on a constaté une vésicule de sang sur la lèvre inférieure, une douleur au poignet et à la main gauche et à la cheville droite. Des

droit de la figure. Un examen a révélé une enflure des lèvres et deux dents supérieures avant cassées. La requérante souffrait aussi d'une vision embrouillée de l'oeil droit, de maux de tête aigus et de douleur au visage. Le dentiste de la requérante a remis à la Commission un plan de traitement proposé pour les soins dentaires ultérieurs dont le coût s'élève à 1 700 \$, pouvant inclure un traitement radiculaire pour la somme additionnelle de 600 \$. La Commission a autorisé ce traitement dentaire et remboursé le dentiste pour un montant sera le dentiste pour un montant n'excédant pas 2 300 \$ une fois ce traitement terminé, moyennant les factures appropriées et une confirmation que la requérante est satisfaite des soins effectués, conformément aux dispositions de l'article 25 de la Loi. La requérante a été incapable de travailler pendant deux semaines à cause des blessures subies pendant l'agression. L'assailant n'a pas été inculpé faute d'une identification formelle de la part de la requérante. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 348 \$ pour la perte de revenus nette 7 1) b) ; 1 500 \$ pour la douleur et les souffrances 7 1) d) ; 32,50 \$ pour la perte de revenus nette subie pour assister à l'audition; 350 \$ pour les honoraires du procureur et 545 \$ pour les débours, soit une indemnité totale de 2 775,50 \$.

□ DOSSIER : 922-016732

Le requérant, un camionneur âgé de 23 ans, avait entendu des bruits suspects dans son voisinage, à environ 22 h 30. Peu de temps après, un homme armé d'un couteau l'a soudainement attaqué et l'a poignardé dans l'abdomen et la partie supérieure de la poitrine. Le

chroniques de son abus de l'alcool ou de la blessure. Le requérant a déclaré à la Commission qu'il avait consommé environ six verres de type et coke au cours des quatre ou cinq heures précédant cet incident. Il a aussi admis qu'il avait échangé des insultes raciales, mais ne pensait pas avoir laissé croire qu'il voulait se battre avec l'assailant qui, selon ses témoignages, aurait pesé environ 300 livres et mesuré plus de six pieds. Cependant, l'ami du requérant, le propriétaire du camion, a déclaré à la police que le requérant avait clairement démontré qu'il voulait se battre. Compte tenu des preuves déposées, la Commission a conclu que le comportement du requérant avait directement contribué à l'agression et, par conséquent, a invoqué les dispositions de l'article 17 1) et a refusé d'accorder une indemnisation pour la douleur et les souffrances. Cependant, même si le requérant a contribué à l'agression, celle-ci a entraîné des résultats plutôt extrêmes. La Commission était aussi d'avis que l'abus de l'alcool par le requérant était un facteur important dans cet incident et a reconnu qu'il a déployé des efforts considérables pour remédier à ce problème, depuis l'agression. De plus, le requérant ne semblait pas avoir d'antécédents de comportement provocateur ou de violence. La Commission a donc adjugé la somme de 3 000 \$ pour la perte de revenus 7 1) b) ; et 1 75 \$ pour les rapports médicaux 7 1) f), soit une indemnité totale de 3 175 \$.

□ DOSSIER : 922-017515

La requérante, âgée de 41 ans, se trouvait à une soirée privée, à environ 2 h du matin, lorsqu'elle a été agressée par un homme qui l'a frappée à la figure. La requérante a été blessée à la bouche et au côté

environ trois semaines après l'agression, le médecin traitant a déclaré à la requérante qu'elle était à 95 % rétablie, avec un excellent pronostic. La requérante s'est absentée du travail pendant deux semaines et sa perte de salaire ainsi que toutes les dépenses engagées ont été indemnisées par la Commission des accidents du travail. La requérante a porté une accusation privée contre l'assailant, mais n'a pas rapporté l'incident à la police. L'assailant a reçu une sentence avec sursis et 2 ans de probation. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 900 \$ pour la douleur et les souffrances 7 1) d).

□ DOSSIER : 922-018769

Le requérant, un vendeur âgé de 33 ans, a été agressé dans le stationnement d'un centre commercial. Il s'était rendu au centre commercial avec un ami et était resté dans le camion pendant que celui-ci faisait une course. Sur ces entrefaites, pour une raison inconnue, un homme a critiqué la façon dont le camion était stationné et a ordonné au requérant de le déplacer. Lorsque le requérant a répliqué que ce n'était pas son camion et qu'il n'avait pas les clés, les deux hommes se sont mis à se disputer. Ils ont échangé des insultes raciales et le requérant a été frappé à la figure, projeté au sol et a reçu des coups de pied. Pendant cette agression, le requérant a été sérieusement blessé à la tête, ayant subi deux fractures du crâne. Il a été hospitalisé pendant 11 jours et n'a pu travailler pendant 11 semaines. Des évaluations psychologiques du requérant ont indiqué une certaine difficulté au niveau de la pensée abstraite, mais il était impossible de déterminer si celle-ci était due aux effets

mande admissible conformément à l'article 5 a) et a adjugé la somme de 28 \$ pour la perte de revenus d'une journée 7 1) b) et 500 \$ pour la douleur et les souffrances 7 1) d), soit une indemnité totale de 528 \$.

□ DOSSIER : 922-019301

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, un agent de sécurité âgé de 34 ans, travaillait dans un centre commercial au moment de l'agression. Il s'était approché de l'assaillant et lui avait demandé de quitter les lieux. Lors- que celui-ci a refusé, le requérant lui a ordonné de l'accompagner au bureau de la sécurité. En s'appro- chant du bureau, l'assaillant est devenu enragé et a donné un coup de coude sur la bouche du requé- rant. L'assaillant a cassé deux dents du requérant qui a dû les faire ex- traire et se faire poser une prothèse partielle supérieure en acrylique. Le requérant était physiquement rétabli un mois après l'agression, mais éprouve maintenant une certaine difficulté à mordre dans des aliments durs. Neuf mois après l'agression, il en est encore troublé. L'assaillant n'a pas été appréhendé. La Commission a déclaré la de- mande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 1 000 \$ pour la douleur et les souffrances 7 1) d).

□ DOSSIER : 922-020243

Le requérant, un agent de sécurité âgé de 47 ans, avait fini de travail- ler et s'apprêtait à sortir du station- nement de la compagnie, à environ 1 h du matin, lorsqu'il est sorti de sa voiture pour en nettoyer les phares. Une fois à l'extérieur, il a été attaqué et battu par un groupe de quatre ou cinq hommes, au

Lorsqu'il a repris connaissance, il

gisait devant sa voiture. Son front et ses joues étaient enflés et contu- sionnés et il a subi un large héma- tome derrière la tête, deux côtes fracturées et une fracture de l'os malaire. L'agression a également aggravé une ancienne blessure au dos pour laquelle il a dû recevoir de la thérapie. À cause de cette agression, il a été incapable de tra- vailler pendant plusieurs mois. Les assaillants n'ont pas été appréhen- dés. La Commission a déclaré la demande admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 360 \$ pour les frais engagés 7 1) a) ; 5 000 \$ pour les pertes pécuniaires de la victime 7 1) b) ; 3 000 \$ pour la douleur et les souffrances 7 1) d) ; et 17,50 \$ pour autre perte pécuniaire 7 1) f), soit une indemnité totale de 8 377,50 \$.

□ DOSSIER : 922-019894

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Cette demande avait initialement été présentée à la Commission par la mère de la vic- time, mais à l'arêteinte de l'âge de majorité, la victime est devenue le requérant. Le requérant, âgé de 16 ans au moment de l'incident, faisait de la planche à roulettes dans un stationnement avec des amis à en- viron 22 h 30 lorsqu'un autre groupe de jeunes s'est approché d'eux et leur a lancé une bouteille de bière. Le requérant et ses amis ont décidé de s'en aller et s'apprê- taient à monter dans un camion lorsque le requérant a été confronté par le jeune contrevenant qui lui a donné un coup de pied dans la figure, lui faisant perdre ses verres de contact et lui causant une bles- sure aux tissus mous de l'oeil. Le requérant et ses amis ont alors quitté les lieux et le requérant a été

conduit à l'hôpital. Le jeune con- trevenant a été reconnu coupable et a reçu une condamnation avec sursis, avec un an de probation. La Commission a déclaré la deman- de admissible conformément à l'article 5 a) de la Loi et a adjugé la somme de 79,50 \$ pour le coût des verres de contact 7 1) a) ; et 1 200 \$ pour la douleur et les souf- frances 7 1) d), soit une indemnité totale de 1 279,50 \$.

□ DOSSIER : 922-018818

Avec l'accord de la requérante, cette demande a été étudiée seule- ment à partir des preuves documen- taires déposées. La requérante, une infirmière auxiliaire en soins psychiatriques âgée de 41 ans, a été attaquée par un patient alors qu'elle était de service dans un centre de santé mentale. Elle avait repéré un patient qui s'approchait de façon menaçante d'une autre infirmière et, croyant celle-ci en grave danger, la requérante a tenté de retenir de force le patient. C'est alors que le patient l'a attaquée. La requérante a reçu des soins à l'hôpi- tal, où l'on a constaté une morsure humaine au pouce, des égratignures et des éraflures au côté droit du visage et du cou, un cuir chevelu enflé, une enflure du bras droit, de même qu'une raideur dans le bras et le cou. Elle a vu son médecin le lendemain de l'agression qui a confirmé une sensibilité doulour- euse, une contusion et une enflure au niveau de la mâchoire droite, une sensibilité douloureuse au ni- veau du muscle sterno-cléido- mastoïdien (qui permet de tourner et d'abaisser la tête) et une sensi- bilité douloureuse dans la région du cou, avec un mouvement latéral limité à 20 degrés. Il a également confirmé la sensibilité douloureuse du cuir chevelu et la morsure au pouce. Dans un rapport rédigé

continuait à éprouver de la douleur à la cheville droite, mais qu'il n'a constaté aucun problèmes ni aucune plainte chez le requérant qu'il a revu à maintes occasions. Le requérant a indiqué que la cheville a guéri dans environ deux semaines, mais qu'il éprouve encore de la douleur lorsqu'il marche, court, danse ou se tient debout. Il a aussi indiqué qu'il est incapable de faire du sport comme avant et que sa cheville est douloureuse lorsque le temps varie. Même si la perte de salaire de l'emploi à temps partiel du requérant a été indemnisée par la Commission des accidents du travail, la Commission lui a accordé la somme de 566,95 \$ pour la perte de salaire nette dans son emploi permanent. L'assailant a été reconnu coupable d'agression et condamné à une amende de 100 \$ ou 30 jours de prison. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 42,21 \$ pour les frais engagés 7 1) a); 566,95 \$ pour les pertes pécuniaires de la victime 7 1) b) et 800 \$ pour la douleur et les souffrances 7 1) d), soit une indemnité totale de 1 409,16 \$.

□ DOSSIER : 922-018831

Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La demande a été présentée par la mère de la victime, un garçon qui a été agressé par un jeune contrevenant alors qu'il rentrait chez lui après avoir livré des journaux. La requérante a amené son fils à l'hôpital où l'on a réimplanté une incisive et posé une barre d'arcade. Ce soutien stable-sateur a été retiré six semaines plus tard. Le jeune contrevenant a été condamné à 12 mois de probation. La Commission a déclaré la de-

déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 387,50 \$ pour les frais engagés 7 1) a); 1 600 \$ pour les pertes pécuniaires de la victime 7 1) b); 5 000 \$ pour la douleur et les souffrances 7 1) d); 50 \$ pour les autres pertes pécuniaires 7 1) f) et par la modification subséquente, 2 798 \$ pour les frais dentaires 7 1) f), soit une indemnité totale de 9 835,50 \$.

□ DOSSIER : 922-015916

Avec l'accord du requérant, cette demande a été étudiée seulement à partir des preuves documentaires déposées. Le requérant, âgé de 23 ans, travaillait à plein temps pour une compagnie de fabrication et d'importation de produits alimentaires et à temps partiel pour une épicerie. Un soir, à l'épicerie, le comptable lui a demandé son assistance parce qu'il avait des ennuis avec un client insatisfait qui avait demandé le remboursement de marchandises pour lesquelles il n'avait aucun reçu de caisse. Lors-que le requérant a avisé le client de quitter les lieux, celui-ci l'a poussé et le requérant a répondu du même geste. L'assailant a alors donné un coup de pied au requérant qui s'est blessé à la cheville droite en lui rendant la pareille. Le requérant a reçu des soins à la salle d'urgence d'un hôpital pour une foulure de la cheville d'une bande élastique, remis des béquilles au requérant et lui a prescrit du repos et des analgésiques. Six jours après l'infliction de la blessure, le médecin traitant a constaté que la cheville était enflée et ne pouvait supporter qu'un poids minime. Cinq jours plus tard, le requérant n'avait plus besoin de béquilles. Le médecin a indiqué dans son rapport que le mois suivant, le requérant

□ DOSSIER : 922-020191
Avec l'accord de la requérante, cette demande a été étudiée seulement à partir des preuves documentaires déposées. La requérante, une secrétaire âgée de 34 ans, a été agressée par son mari le 17 juillet 1987 lorsque le présumé assaillant est rentré chez lui en état d'ébriété. Il s'est mis à la rudoyer verbalement, l'a agressée et l'a frappée à plusieurs reprises, l'a projetée au sol, lui a assené des coups de pied dans la région inférieure gauche de la poitrine et du dos et a tenté de l'étrangler. La requérante a été transportée à l'hôpital par ambulance, où un examen a révélé qu'elle souffrait de sensibilité douloureuse à la pression et de contusions dans la région abdominale, de sensibilité douloureuse autour des muscles lombaires et de contusions sur les bras et les jambes. On lui a prescrit des analgésiques et conseillé de se reposer et d'appliquer de la glace, puis elle a pu rentrer chez elle. La requérante a consulté son médecin de famille 3 jours plus tard, se plaignant de douleur pleurétique au côté gauche, de douleur au niveau des reins, du côté droit et au niveau des hanches, d'insomnie et de maux de tête. Cet examen médical a révélé des contusions au côté gauche de la poitrine, de la région lombaire et des hanches, de l'anxiété post-traumatique, de l'insomnie et des maux de tête causés par la tension. Le médecin lui a prescrit des analgésiques et de faibles tranquillisants "à prendre au besoin". Il a aussi suggéré qu'elle se repose jusqu'à la guérison des contusions. Un examen ultérieur, le 14 décembre, a révélé que la requérante était encore très angoissée et le médecin a conclu qu'à part la tension mentale et l'anxiété résultant de l'incident, la requérante ne

□ DOSSIER : 922-016682
Le 9 septembre 1986, le requérant, âgé de 25 ans, entrerait dans une bouche de métro lorsqu'il a aperçu un homme en train de gifler une femme qu'il retenait contre un mur. Le requérant lui a dit de libérer la femme, mais l'assaillant a refusé. souffrait pas de troubles physiques à long terme. Il a également indiqué qu'elle avait été incapable de travailler à cause de ses blessures. Dans une déclaration écrite présentée à la Commission, la requérante a indiqué qu'il lui a fallu 6 mois pour se rétablir de ses blessures. Comme elle n'avait pas été capable de faire ses exercices physiques pendant 2 mois, elle était encore incapable d'exécuter tous les exercices qu'elle pouvait faire auparavant. Elle a aussi fait état de la tension, des maux de tête périodiques, de l'angoisse, de la crainte et du sentiment d'humiliation dont elle a souffert à cause de l'incident. La requérante a remis les documents à l'appui de sa demande d'indemnisation pour perte de revenus. Son employeur a indiqué que cette perte correspondait à 21,5 heures de travail. Après les deductions usuelles, la Commission a calculé sa perte à 213,06 \$. La police a avisé la requérante que le présumé assaillant serait accusé d'agression de deuxième niveau. Le juge saisi a décerné un mandat contre le présumé assaillant. La Commission a déclaré la demande admissible conformément à l'article 5 a) et a adjugé la somme de 22 \$ pour les frais 7 1 a); la somme de 213,06 \$ pour les pertes pécuniaires de la victime 7 1 b); la somme de 2 500 \$ pour la douleur et les souffrances 7 1 d), 250 \$ pour les frais juridiques et 303,07 \$ pour les débours, soit une indemnité totale de 3 288,13 \$. □ DOSSIER : 922-016682

SOMMAIRE GLOBAL DES MONTANTS ADJUGÉS

DU 1^{er} AVRIL 1988 AU 31 MARS 1989

Mois	N ^{bre} d'indemnités	Frais médicaux	Perte de revenus	Perte pécuniaire pour les parents de la victime décédée	Douleur et souffrances	Frais d'enterrement	Autre perte pécuniaire	Frais juridiques	Total des indemnités forfaitaires	Total des indemnités mensuelles
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Avril	17	401,75	885,00	0	21 200,00	0	1 748,52	850,00	25 085,27	102 921,00
Mai	180	23 194,83	31 683,73	13 110,00	476 559,90	9 739,00	22 774,64	20 249,00	597 311,10	102 911,00
Juin	82	7 145,52	29 794,60	7 832,30	287 900,00	2 394,62	7 262,36	8 950,00	351 279,40	104 911,00
Juillet	116	13 768,41	53 795,34	0	355 150,00	8 100,00	17 439,89	12 150,00	460 403,64	102 553,00
Août	122	8 036,32	56 438,53	0	356 750,00	2 700,00	20 618,88	13 850,00	458 393,73	102 381,00
Septembre	143	33 674,50	56 326,59	0	537 800,00	0	27 202,08	15 200,00	670 203,17	102 643,00
Octobre	135	5 942,17	48 472,76	0	424 150,00	731,00	16 616,35	11 356,50	507 268,78	105 181,00
Novembre	122	3 844,09	42 240,05	21 064,00	310 225,00	5 400,00	13 366,87	11 125,00	407 265,01	107 295,00
Décembre	135	17 185,11	70 255,19	24 820,00	318 900,00	10 082,00	37 012,81	13 684,00	491 939,11	108 465,00
Janvier	133	22 415,05	68 210,75	43 929,84	355 528,00	6 585,50	25 755,00	15 429,10	537 853,24	109 605,00
Février	156	8 910,15	43 581,51	0	509 750,00	2 700,00	34 399,47	13 550,00	612 891,13	112 305,00
Mars	156	19 656,23	82 154,23	0	572 400,00	2 700,00	52 622,28	22 864,00	752 397,34	108 305,00
TOTAL	1 497	164 174,13	583 838,88	110 756,14	4 526 312,90	51 132,12	276 819,15	159 257,60	5 872 290,92	1 269 476,00
		2,8 %	9,94 %	1,89 %	77,08 %	0,87 %	4,71 %	2,71 %		

TOTAUX COMBINÉS DES INDEMNITÉS FORFAITAIRES ET MENSUELLES

7 141 766,92

SOMMAIRE COMPARATIF DES DEMANDES ET DÉCISIONS PAR EXERCICE

	Du 1 ^{er} avril 1985 au 31 mars 1986	Du 1 ^{er} avril 1986 au 31 mars 1987	Du 1 ^{er} avril 1987 au 31 mars 1988	Du 1 ^{er} avril 1988 au 31 mars 1989
Demandes admissibles reçues	1799	2000	2247	2458
Demandes entendues (1)	1233	1141	1176	1532
Demandes entendues à partir des preuves documentaires	81	44	265	710
Demandes entendues mais rejetées	48	51	86	69
Réexamen des montants adjugés	3	6	11	10
Prises de décisions et montants adjugés (2)	1220	1376	1315	1497
Dossiers clos	455	489	323	516
Indemnités provisoires	7	7	7	18
Indemnités supplémentaires	81	268	157	128
Indemnités périodiques	15	21	19	14
Versements forfaitaires	3 382 775,91 \$	3 539 159,10 \$	4 734 953,00 \$	5 872 290,92 \$
Versements périodiques	617 499,36 \$	770 926,26 \$	1 220 003,00 \$	1 269 746,00 \$
TOTAL DES MONTANTS ADJUGÉS	4 000 275,27 \$	4 310 085,36 \$	5 954 956,00 \$	7 141 766,92 \$
Moyenne des indemnités (3)	2 772,76 \$	2 451,54 \$	3 652,84 \$	3 959,73 \$

NOTA :

- 1) Inclut les demandes entendues à partir seulement des preuves documentaires, les demandes entendues mais rejetées et les demandes entendues, mais nécessitant des preuves additionnelles. Exclut les dossiers clos.
- 2) Inclut les indemnités provisoires, supplémentaires et périodiques.
- 3) Les versements périodiques ne sont pas inclus dans la moyenne des indemnités.

Sommaire comparatif des demandes et décisions par exercice

Du 1^{er} avril 1988
au 31 mars 1989

EXEMPLES DE DÉCISIONS NOTE EXPLICATIVE CON- CERNANT LES DÉCISIONS DE LA COMMISSION

ce qui représente un guide utile pour les auteurs de demandes et les avocats. Des exemplaires des décisions de la Commission sont non seulement remis aux parties en cause, mais aussi aux médias, aux étudiants et à un certain nombre d'établissements. Pour les raisons stipulées dans la Loi, ces dispositions excluent les auditions tenues à huis clos ou dont la publication est restreinte.

L'indemnisation des victimes d'actes criminels requiert une décision de la Commission. C'est la le principal instrument d'action juridique de la Commission d'indemnisation des victimes d'actes criminels. L'article 7 de la Loi sur l'indemnisation des victimes d'actes criminels, appliquée par la Commission, énumère les chefs de préjudice pouvant donner droit à une indemnisation. La majorité des décisions de la Commission sont dans cette catégorie. L'article 14 stipule que dans les cas de réelles difficultés financières, et lorsque la Commission prévoit accorder une indemnisation, celle-ci peut décider de verser au requérant des indemnités provisoires. L'article 22 prévoit l'indemnisation des frais, habituellement ceux engagés pour présenter une demande ou à l'appui de celle-ci. Par ailleurs, l'article 25 représente l'une des dispositions les plus humanitaires de la Loi de la Commission. Même si la Commission a déjà traité la demande et a rendu sa décision, advenant a) qu'une nouvelle preuve soit soumise, ou b) qu'un changement de circonstances soit survenu, ou c) que la Commission prenne en considération tout autre fait pertinent, à la demande de l'une ou l'autre des parties en cause, la Commission peut modifier les conditions de la décision initiale tel qu'elle le juge à propos. Ainsi, une demande, une fois entendue, peut souvent être réétudiée dans les circonstances prévues par cette disposition. Conformément à l'article 4, les décisions de la Commission sont périodiquement publiées, de même que les motifs,

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS

Types d'actes criminels
rapportés sur les demandes
du 1^{er} avril 1988
au 31 mars 1989

1) Voies de fait simples	35,9 %
2) Voies de fait causant des lésions corporelles	21,4 %
3) Voies de fait des plus graves	2,9 %
4) Voies de fait avec une arme	2,2 %
5) Agressions sexuelles	16,4 %
6) Voies de fait contre la police	3,1 %
7) Résistance à l'arrestation	2,6 %
8) Tentative de meurtre	3,7 %
9) Meurtre	3,4 %
10) Vol	5,3 %
11) Négligence criminelle	1,1 %
12) Tous les autres	2,0 %



NOTA :

"Enfance maltraitée". Les statistiques ci-dessus, dressées à partir de la terminologie du Code criminel du Canada incluent 239 cas communément désignés par "enfance maltraitée". Les cas de violence domestique, particulièrement les cas de femmes battues, sont inclus dans les diverses catégories d'agressions.

Enfance maltraitée

Au cours de cet exercice, la Commission a reçu 239 demandes ayant trait à des enfants maltraités, a entendu 109 causes et a adjugé la somme de 879 473,80 \$.

Administration et productivité

Le personnel administratif de la Commission se compose d'un chef directeur administratif, d'un chef des enquêtes, de trois enquêteurs, d'un directeur des demandes

d'indemnisation, de cinq analystes d'indemnisation et d'un personnel de soutien formé de 15 personnes. Au cours de cet exercice, la Commission a entendu 1532 demandes et a accordé une indemnisation dans 1497 cas. Le nombre

d'indemnités accordées est supérieur au nombre de demandes entendues en raison des montants adjugés pour des demandes entendues au cours de l'exercice précédent. La valeur totale des montants adjugés est passée de 5 954 958 \$ en 1987-1988 à 7 141 766,92 \$ en 1988-1989. De ce montant, 1 269 476 \$ ont été accordés sous forme de versements périodiques. Le nombre de demandes est passé de 2247 en 1987-1988 à 2458 pour cet exercice. Étant donné une plus grande sensibilisation aux besoins des victimes d'actes criminels, la Commission s'attend à ce que le taux de demandes continue à

augmenter.

Sensibilisation du public

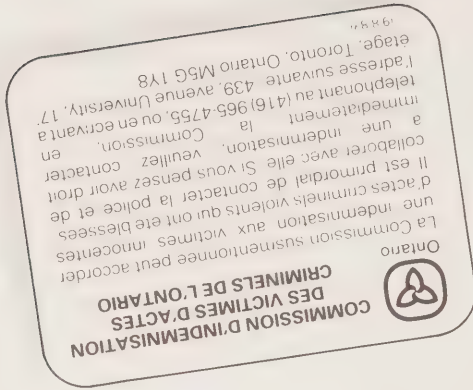
De grandes affiches et des dépliants explicatifs sont fournis dans les services d'urgence et les salons du personnel des hôpitaux, les palais de justice, les bureaux des coordinateurs de services d'aide aux victimes et aux témoins, les bureaux d'autres coordonnateurs, les endroits publics, etc.

La Commission a produit des centaines de milliers de cartes (voir

l'illustration) expliquant comment présenter une demande d'indemnisation, quelle a été distribuée à tous les corps policiers de la province, à l'intention des victimes d'actes criminels. Elle fournit aussi une liste quotidienne des auditions et une série de décisions types aux médias et à d'autres organismes, sur demande.

Partage des coûts

Les montants adjugés conformément à la Loi sur l'indemnisation des victimes d'actes criminels proviennent de fonds accordés par le gouvernement fédéral et le gouvernement de l'Ontario. La contribution du gouvernement fédéral correspond à moins de 50 % des montants adjugés (nets, après tout recouvrement), ou de 25 cents par habitant de la province. Pour l'exercice de 1988-1989, cette part se situait à 2 357 700 \$. Le gouvernement fédéral ne défraie aucune partie des frais administratifs.



Description du programme

La loi

Les activités de la Commission sont régies par la Loi sur l'indemnisa-

tion des victimes d'actes criminels,

qui est entrée en vigueur le

1^{er} septembre 1971 et remplace la

Law Enforcement Compensation

Act de 1967. Conformément à la

Loi de 1971, la Commission doit

établir qu'il y a eu un acte criminel

violent (dans la classe principale

des requêtes le précédant). Des

preuves adéquates et irréfutables à

cet égard sont essentielles pour que

la Commission puisse accorder une

indemnisation. De plus, la Com-

mission doit tenir compte de toutes

les circonstances pertinentes, y

compris le comportement de la

victime au moment de l'incident et

sa coopération avec les organismes

d'application de la loi. L'article 6

de la Loi prévoit un délai de

préscription d'un an suivant la

présentation de la demande

d'indemnisation, mais la Commis-

sion peut prolonger cette période si

elle le juge nécessaire. Au courant

de l'année, 322 demandes de pro-

longation du délai de prescription

ont été approuvées et 11 ont été

refusées.

Indemnisation

Tel que prévu par la Loi sur

l'indemnisation des victimes

d'actes criminels, les victimes

d'actes criminels violents peuvent

être indemnisées comme suit :

Jusqu'à 25 000 \$ pour une indem-

nité forfaitaire, et jusqu'à 1 000 \$

par mois pour des versements

périodiques. Lorsqu'en plus des

versements périodiques, une

indemnité forfaitaire est accordée,

celle-ci ne doit pas excéder la

moitié du montant maximal, soit

12 500 \$.

Subrogation

La Commission est subrogée aux

droits du bénéficiaire du paiement

fait en vertu de la présente loi, de recouvrer, au moyen d'une instance civile, des dommages-intérêts à l'égard de la lésion ou du décès. Au cours de cet exercice, les montants recouverts étaient de l'ordre de 56 508 \$, par rapport aux exercices précédents :

Auditions

1983-1984	38 679
1984-1985	62 991
1985-1986	68 729
1986-1987	61 962
1987-1988	52 352 \$

Documentaires

Certaines demandes étant relative-

ment simples à régler, la Commis-

sion peut, avec l'accord préalable

du requérant, prendre sa décision à

partir des preuves documentaires

seulement. Au total, au cours de

cet exercice, 710 auditions étaient

fondées seulement sur les preuves

documentaires par rapport à 265 en

1987-1988. Cette approche permet

de minimiser le dérangement du

requérant et/ou du procureur et des

témoins, car le requérant n'a pas à

se déplacer et à s'absenter de son

travail pour assister à l'audition, ni

à assumer les frais s'y rattachant.

Providence Bay	1	Timmins	8
Rainy River	1	Toronto	1,000
Rentrew	2	Trenton	12
Red Bay	1	Upsala	1
Red Lake	2	Vanier	3
Richmond Hill	4	Vankleek Hill	1
Ridgetown	1	Vienna	1
Rodney	1	Vineland	1
Rosehall	3		
Roslin	2	Walkerton	2
Round Lake	1	Wallaceburg	5
Russell County	1	Wardsville	1
Ruthven	1	Wasaga Beach	4
Sarnia	10	Waterdown	1
Sauble Beach	1	Waterloo	14
Sault Ste. Marie	23	Wawa	1
Schreiber	1	Welland	19
Sebringville	1	West Montrose	1
Seine River Reserve	1	Westport	1
Shannonville	2	Whitebog	1
Simcoe	3	Whitby	7
Sioux Lookout	6	Wikwemikong	1
Slate Falls	1	Winchester	1
Smith Falls	7	Windsor	80
Smithfield	1	Woodstock	5
Southampton	2	Worthington	1
South Porcupine	1	Wroxeter	1
Spring Bay	1		
Spring Hill	1	GRAND TOTAL	2,458
St. Catharines	38		
St. Clair Beach	1		
St. Thomas	8		
Still River	1		
Stittsville	1		
Stoney Creek	8		
Stouffville	2		
Stratford	3		
Strathroy	1		
Sturgeon Falls	3		
Sudbury	29		
Sutton	1		
Sydenham	1		
Tecumseh	1		
Thorold	4		
Thunder Bay	49		
Tilbury	4		
Tillsonburg	6		

Godrich	3	Minaki	1
Gordon Township	1	Minden	1
Grand Bend	2	Mississauga	32
Granton	1	Mitchell	1
Grassy Narrows	1	Moosonee	1
Grimsbay	3	Moose Factory	1
Guelph	15	Mount Albert	1
Gull Bay	2		
Gwillimbury	1	Napanee	2
		Nepaan	8
Haliburton	1	Newcastle	1
Halton	1	Newmarket	6
Hagersville	2	New Osnaburg	1
Hamilton	123	Niagara Falls	32
Harrow	1	Niagara-On-The-Lake	2
Hastings	2	Nipissing	1
Hawkesbury	4	North Bay	3
Hearst	1	North Buxton	1
Holiday Beach	1	Northbrook	1
Huntsville	2	Nottawasaga	1
Ingersoll	3	Oakville	11
		Oakwood	1
Kanata	1	Orangeville	2
Kapuskasing	2	Orillia	5
Kemptville	4	Oshawa	35
Kenabeek	1	Oshweken	1
Kenora	3	Ottawa	142
Kincardine	2	Owen Sound	5
King Township	1		
Kingston	50	Paris	4
Kirkland Lake	6	Parkhill	1
Kitchener	35	Parry Sound	3
La Salle	1	Peel Township	1
Leamington	4	Pembroke	15
Lindsay	4	Penetanguishene	6
Lisle	1	Perth	1
London	92	Petaawa	2
Loretto	1	Peterborough	9
L'Orignal	1	Petrolia	1
Lucan	1	Pickering	12
Lucknow	1	Pickle Lake	2
		Picton	1
Madoc	3	Plummer Township	1
Markham	3	Point Edward	1
McArthur's Mills	1	Port Colborne	6
Midland	8	Port Dover	3
Millbrook	3	Port Hope	4
Milton	2	Port Perry	1
		Prescott	2

COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS

DEMANDES PAR RÉGION
1^{er} AVRIL 1988 AU
31 MARS 1989

Acton	
Ajax	
Alliston	
Amherstburg	
Ancaster	
Angus	
Apsley	
Arnprior	
Atikokan	
Attawapiskat	
Atwood	
Aurora	
Aylmer	
Bancroft	
Barrie	
Beamsville	
Beaverton	
Beeton	
Belle River	
Belleville	
Belgrave	
Blind River	
Bobcaygeon	
Bonfield	
Bothwell	
Boyne River	
Bracebridge	
Bramalea	
Brampton	
Brantford	
Brighon	
Britt	
Brockville	
Brown Hill	
Burlington	
Brussels	
Burks Falls	
Caledonia	
Callander	
Campbellford	
Campbellville	
Cambridge	
Cardinal	
Cargill	
Carleton Place	
Carlsbad Springs	
Chatham	
Chelmsford	

4

Clarkson	2
Clearwater	6
Clinton	2
Cobourg	2
Cobocouk	1
Colborne	1
Coleman Township	1
Colchester	2
Collingwood	2
Collins	1
Concord	2
Consecon	1
Cornwall	12
Crystal Beach	2
Deep River	18
Deseronto	1
Dorchester	1
Drayton	1
Dresden	1
Dryden	14
Dundas	1
Dunnville	3
Edwardsbury Township	1
Eganville	1
Elgin	1
Elliot Lake	2
Ennismore	2
Espanola	1
Essex	1
Estaire	1
Fenelon Falls	8
Flamborough	1
Foleyer	9
Fonthill	2
Forest	1
Fort Erie	2
Fort Frances	2
Fort Severn	2
Fruitland	2
Gananoque	15
Georgetown	1
Georgia Township	1
Georgian Bay	1
Geraldton	1
Glencoe	2
Gloucester	7

Types d'actes criminels
rapportés sur les demandes
du 1^{er} avril 1988 au
31 mars 1989

COMMISSION
D'INDEMNISATION
DES VICTIMES
D'ACTES
CRIMINELS

883	Voies de fait simples
525	Voies de fait causant des lésions corporelles
72	Voies de fait des plus graves
55	Voies de fait avec une arme
15	Lésions corporelles causées intentionnellement
402	Aggressions sexuelles (toutes)
76	Voies de fait contre la police
63	Résistance à l'arrestation
91	Tentative de meurtre
83	Meurtre
7	Homicide
130	Vol
28	Négligence criminelle
7	Incendie criminel
3	Méfait mettant en danger la vie de quelqu'un
5	Intimidation par la violence
5	Utilisation dangereuse d'armes à feu
5	Conduite dangereuse d'un véhicule
2	Prise d'otage
1	Enlèvement
2 458	TOTAL

NOTA :
Les statistiques ci-dessus incluent 239 cas énumérés dans le Code criminel du Canada et communément désignés par "enfance maltraitée".

La Commission

WENDY L. CALDER

Présidente

LENNOX M. M. BIGFORD

Vice-président

ANNE STANFIELD

Vice-présidente (à temps partiel)

Membres (à temps partiel)

ELI FREEMAN

JOHN D. V. HOYLES

RITA KAEDING

CELIA KAVANAGH

ROGER M. KIRKPATRICK

JAMES D. LANG

JOHN F. SANTOS

JUDITH STEPHENS-WELLS

TERESA TAIT

ANNE TOMJENOVIC

ROY A. YOUNGSON

V. P. GIUFFRÉ

Directeur administratif

J. H. SHEARD

Chef des enquêtes

F. G. SUTER

Directeur des demandes

d'indemnisation

Pour obtenir d'autres exemplaires du présent
rapport, s'adresser à :
La Commission d'indemnisation des victimes
d'actes criminels
1^{er} étage, 439, avenue University
Toronto (Ontario) M5G 1Y8
Téléphone : (416) 326-2900
Télécopie : (416) 326-2833

sur l'administration de
l'indemnisation des victimes
d'actes criminels pour
l'exercice du 1^{er} avril 1988
au 31 mars 1989

COMMISSION
de la
D'INDEMNISATION DES
VICTIMES D'ACTES
CRIMINELS DE
L'ONTARIO

20^e
RAPPORT



Office of
The Chairman
Cabinet du
Président

**Criminal Injuries
Compensation
Board
Commission d'indemnisation
des victimes d'actes
criminels**

439 ave. University Ave.
17th Floor/17e étage
Toronto, Ontario
M5G 1Y8

Howard Hampton
Procureur général de l'Ontario
Edifice du Parlement
Toronto (Ontario)

Monsieur le procureur général,

J'ai l'honneur de vous présenter le vingtième rapport de la Commission d'indemnisation des victimes d'actes criminels, pour la période du 1^{er} avril 1988 au 31 mars 1989.

Veillez agréer, Monsieur le procureur général, l'expression de ma plus haute considération.

La présidente,

Glady J. Borden

(M^{me}) Wendy L. Calder



COMMISSION
D'INDEMNISATION DES VICTIMES
D'ACTES CRIMINELS
1988-1989

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FEB 26 1992



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